



Town Board of Trustees

Tuesday, November 23, 2021 at 7:00 pm

**PLEASE SILENCE ALL CELL PHONE AND ELECTRONIC DEVICES.
THANK YOU.**

1. Meeting Information

207 Muegge Way, Bennett, CO 80102

For a live stream of the meeting use the information below:

<https://us02web.zoom.us/j/82031341457>

Meeting ID: 820 3134 1457

Passcode: 556890

One tap mobile

+13462487799

2. Call to Order

Royce D. Pindell, Mayor

a. Roll Call

3. Pledge of Allegiance

Royce D. Pindell, Mayor

4. Approval of Agenda

Royce D. Pindell, Mayor

5. Consent Agenda

Royce D. Pindell, Mayor

a. November 9, 2021 Regular Meeting Minutes

Attachments:

- **November 9, 2021 Regular Meeting Minutes** (11-09-2021_-_Regular_Meeting_Minutes.pdf)

Public Comments on Items Not Scheduled for Public Hearing

The Board of Trustees welcomes you. Thank you for joining us for our Town of Bennett Board of Trustees Meeting. If you are not speaking, we ask that you please mute your microphone. For public comment please sign up on the provided sheet or in the chat box. If you are on the phone, once we get through the sign-up sheet and chat box we will call for any other comments for items not on the agenda.

Your comments will be limited to three (3) minutes. The Board may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and provide direction to the appropriate member of Town staff for follow-up. Thank you.

Regular Business

6. Public Hearing

a. Building Code Appeal - 215 Kiowa Avenue, Tymanike Apartment Decks

Sara Aragon, Community Development Manager

Tom Pitchford, Chief Building Official

Attachments:

- **Public Hearing Script** (BCBOA_Hearing_Script.pdf)
- **Staff Report Building Code Appeal - 215 Kiowa Ave, Tymanike Apartment Decks** (1_-_215_Kiowa_2nd_BuildingCodeAppealHearing_Final.pdf)
- **Original Appeal Letter** (2_-_Appeal_Letter__1_.pdf)
- **Original Building Permit/Plans Submitted** (3_-_Application_and_Plans__1_.pdf)
- **Original Plan Review Comments** (3._Plan_Review_Comments.pdf)
- **Email Conversations with the Owner/Applicant (Prior to First Hearing)** (4_-_Email_communication.pdf)
- **Mr. Vance Letter to Community Development Manager and Response (Prior to First Hearing)** (5_-_GV_Letter_to_Town_and_responses.pdf)
- **New Notices to Newspaper, Owner and Tenants** (6_-_New_Notices_to_Newspaper__Owner_and_Tenants.pdf)
- **International Building Code (IBC) Section 1604.8.3 - Decks** (7_-_IBC_1604.8.3__1_.JPG)
- **International Building Code (IBC) Section 113 - Board of Appeals** (9_-_Section_18.1.20__h__and__i_.pdf)
- **Sec. 18.1.20 (h) and (i) of the Bennett Municipal Code regarding the Board of Appeals** (9_-_Section_18.1.20__h__and__i_.pdf)
- **Staff Report from the First Hearing** (10_-_Staff_Report_from_first_hearing.pdf)
- **Most Recent Plan Review Comments from the Town** (11_-_Plan_Review_Comments_From_Town.pdf)
- **Plan Review from Charles Abbot and Associates** (12_-_Plan_Reveiw_Comments_from_CAA.pdf)
- **Email Communication since Last Hearing** (13_-_Updated_New_email_communication_since_last_hearing.pdf)
- **PowerPoint Presentation** (14_-_PowerPoint_Presentation_Final.pdf)

7. Action/Discussion Items

a. Fourth Amendment to the Intergovernmental Agreement (IGA) between Adams County and the Town of Bennett for an Office Lease at the Bennett Shared County Service Center

Resolution No. 893-21 - A Resolution Approving a Fourth Amendment to the Intergovernmental Agreement (IGA) Between Adams County and The Town of Bennett for an Office Lease at the Bennett Shared County Service Center

Rachel Summers, Deputy Town Administrator

Attachments:

- **Staff Report Fourth Amendment to the Intergovernmental Agreement (IGA) between Adams County and the Town of Bennett for an Office Lease at the Bennett Shared County Service Center** (0_-_Staff_Report.pdf)
- **Fourth Amendment to the Intergovernmental Agreement (IGA) between Adams County and the Town of Bennett for an Office Lease at the Bennett Shared County Service Center** (1_-_IGA_4th_Amend_Bennett_Lease.pdf)
- **Resolution No. 893-21 - A Resolution Approving a Fourth Amendment to the Intergovernmental Agreement (IGA) Between Adams County and The Town of Bennett for an Office Lease at the Bennett Shared County Service Center** (2_-_Resolution_No._893-21_-_Approving_4th_Amendment_IGA_-_Shared_Services_Building_Lease.pdf)
- **Suggested Motion** (3_-_suggested_motion.pdf)

8. Town Administrator Report

Trish Stiles, Town Administrator

9. Trustee Comments and Committee Reports

Mayor and Trustees

10. Adjournment

Individuals with disabilities who need auxiliary aids in attending the meeting may request assistance by contacting the Town Hall at 207 Muegge Way, Bennett, CO 80102-7806, (303) 644-3249. Please give notice at least 48 hours in advance of the meeting to allow for enough time in making the necessary arrangements.

Contact: Christina Hart (chart@bennett.co.us 1303-644-3249 X1001) | Agenda published on 11/19/2021 at 12:26 PM

TOWN OF BENNETT, COLORADO
BOARD OF TRUSTEES
Regular Meeting
November 9, 2021

1. CALL TO ORDER

The Board of Trustees of the Town of Bennett met in regular session on Tuesday, November 9, 2021 via hybrid meeting. Mayor Royce D. Pindell called the meeting to order at 7:03 p.m. The following persons were present upon the call of the roll:

Mayor: Royce D. Pindell

Trustees Present: Kevin Barden - *excused*
Darvin Harrell
Whitney Oakley - *excused*
Denice Smith
Donna Sus
Larry Vittum

Staff Present: Trish Stiles, *Town Administrator*
Rachel Summers, *Deputy Town Administrator*
Alison Belcher, *Assistant Communications Director*
Danette Ruvalcaba, *Finance and Technology Director*
Sara Aragon, *Community Development Manager*
Robin Price, *Public Works Director*
Ricky Martinez, *Assistant Public Works Director*
Adam Meis, *Finance and Technology Coordinator*
Steve King, *Special Projects Coordinator*
Dan Giroux, *Town Engineer*
Melinda Culley, *Town Attorney*
Christina Hart, *Town Clerk*

Public Present: Kathy Smiley, Dr. Gary Vance, Debbie Vance

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Royce D. Pindell.

3. APPROVAL OF AGENDA

TRUSTEE VITTUM MOVED, MAYOR PRO TEM HARRELL SECONDED to approve the agenda as presented.
The voting was as follows:

YES: Harrell, Pindell, Smith, Sus, Vittum

NO: None

EXCUSED: Barden, Oakley

Mayor Royce D. Pindell declared the motion carried by unanimous vote.

4. CONSENT AGENDA

MAYOR PRO TEM HARRELL MOVED, TRUSTEE VITTUM SECONDED to approve the consent agenda as presented.

YES: Pindell, Smith, Sus, Vittum, Harrell

NO: None

EXCUSED: Barden, Oakley

Mayor Royce D. Pindell declared the motion carried by unanimous vote.

A. Action: Approval of October 26, 2021 Regular Meeting Minutes

B. Action: 2022 Arapahoe County Sheriff Law Enforcement IGA

C. Action: Resolution No. 891-21

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Dr. Gary Vance, 2545 Haskell Place, Watkins, Colorado 80137, expressed frustration with the Building Department regarding the Tymanike Apartment decks replacement. Dr. Vance presented the engineering drawings to the Building Department on October 13, 2021 after the public hearing on October 12, 2021. The Board of Trustees acted as the Board of Appeals during the October 12, 2021 public hearing. The Board of Appeals moved to table the motion in order for Dr. Vance and Town staff to work together to achieve a resolution regarding the deck repairs. A resolution has not been reached as of November 9, 2021. Dr. Vance feels he has a positive attachment to the building. Dr. Vance is requesting to appeal the Building Department's decision and come back before the Board of Appeals regarding Section 1604.8.3 of the Building Code.

Melinda Culley, Town Attorney, reported to the Board, public hearings are required, per State Statute, to be properly posted and published before the public hearing. This process is to protect both the Town and the applicant. Ms. Culley stated a new public hearing is acceptable, but discourages any discussion before the public hearing.

TRUSTEE SUS MOVED, TRUSTEE SMITH SECONDED to add the public hearing appeal to the November 23, 2021 regular meeting agenda and properly posting and publishing in the November 12, 2021 Eastern Colorado News. The voting was as follows:

YES: Smith, Sus, Vittum, Harrell

NO: None

EXCUSED: Barden, Oakley

RECUSED: Pindell

Mayor Royce D. Pindell declared the motion passed unanimously.

5. REGULAR BUSINESS

A. Action/Discussion

1. 2022 Town of Bennett Budget Second Draft

Danette Ruvalcaba, Finance and Technology Director, presented the 2022 Town of Bennett second draft of the 2022 schedule of fees and building permit fee comparison to the Trustees.

2. RFP 21-012 – Engineering Services Related to Kiowa-Bennett Road (KBR) Culvert Replacement Safety Improvements

Dan Giroux, Town Engineer, reported to the Trustees, the Town of Bennett was awarded a \$450,000 grant for safety improvements on Kiowa-Bennett Road (KBR) from the Federal Highway Administration as a part of their High Risk Rural Roads (HRRR) Highway Safety Improvement Program (HSIP). The Town proposed that the grant money be used to replace two compromised major stormwater drainage culverts.

Following significant collaborative concept development work, Arapahoe County Open Space agreed to pay an additional \$248,500 to upgrade the south or “Copeland” culvert crossing to a KBR Trail underpass. This underpass will provide a safe, grade-separated crossing for KBR Trail users to access the County’s Kiowa North Open Space (KNOS), with future connection to Kiowa Creek and ultimately the Town’s existing and planned trail system.

Towards delivery of this project, the Town posted a Request for Proposals (RFP 21-012) for engineering services on the Town RFP web site as of September 13, 2021, and Town Staff approached and recruited multiple qualified engineering firms to respond and propose.

Town Staff interacted with four highly qualified engineering firms through the RFP process, beginning with the RFP posting and through the October 11, 2021, submittal deadline. All four firms submitted questions, which were addressed in an Addendum 1 and posted on October 6, 2021. Two firms ultimately submitted proposals, and Town Staff conducted interviews with the two proposing firms. The proposal fees are summarized below.

Company	Proposal Price
ICON Engineering, Inc.	\$139,757.00
Bohannon Huston Inc.	\$158,699.60
Ayres Associates Inc.	Submitted project questions, formally declined to propose, citing workload status
Short Elliott Hendrickson Inc. (SEH)	Submitted project questions, formally declined to propose, citing workload status

Through the RFP, proposal review and interview process, Town Staff unanimously felt ICON Engineering, Inc. provided the best proposal based on project team, schedule, approach, fee and directly similar and applicable experience.

Town Staff recommends the Bennett Board of Trustees authorize the Mayor to sign and enter into a standard Town contract for engineering services with ICON Engineering, Inc., for an amount not to exceed \$139,757 towards engineering of specific major stormwater drainage culvert replacement safety improvements at Kiowa-Bennett Road.

MAYOR PRO TEM HARRELL MOVED, TRUSTEE SUS SECONDED to authorize the Mayor and the Town of Bennett to enter into a standard Town contract agreement for engineering services with ICON Engineering, Inc., for an amount not to exceed \$139,757 towards engineering of specific major stormwater drainage culvert replacement safety improvements at Kiowa-Bennett Road. The voting was as follows:

YES: Smith, Sus, Vittum, Harrell, Pindell

NO: None

EXCUSED: Barden, Oakley

Mayor Royce D. Pindell declared the motion passed unanimously.

3. Participation in Opioid Settlement

Resolution No. 892-21 – A Resolution Approving the Colorado Opioids Settlement Memorandum Of Understanding and Other Documents Necessary for the Town’s Participation in Pending Opioids Settlements

Trish Stiles, Town Administrator, reported to the Trustees, the proposed settlement is the first step in the process in order to participate in the settlement. Town of Bennett calculated approximately \$4,000 to be received by the Town. The funds will be turned back to the respective Counties partners to support their services and programs.

Melinda Culley, Town Attorney, the State of Colorado has been part of multiple class action lawsuits relating to the opioid settlement resulting in up to approximately \$400 million in settlement proceeds for the State and Colorado local governments to abate the opioid crisis. The settlement will be distributed over a number of years. The memorandum of understanding sets the framework for distributing and sharing settlement proceeds throughout Colorado.

TRUSTEE VITTUM MOVED, TRUSTEE SMITH SECONDED to approve Resolution No. 892-21 – A resolution approving the Colorado opioids settlement memorandum of understanding and other documents necessary for the Town’s participation in pending opioids settlements. The voting was as follows:

YES: Vittum, Harrell, Pindell, Smith, Sus

NO: None

EXCUSED: Barden, Oakley

Mayor Royce D. Pindell declared the motion passed unanimously.

4. Municipal Judges and Prosecuting Attorney Compensation

Ordinance No. 732-21 – An Ordinance Establishing the Salary for the Municipal Judge

Christina Hart, Court Clerk, reported to the Trustees, During the October 26, 2021, study session, Staff reported to the Board that the Town’s municipal judges had not seen an increase in compensation for

over 10 years. In that same meeting, Staff provided a municipal judge and prosecuting attorney salary survey so the Board could see salary comparisons for those positions.

Upon reviewing the information provided, the Board directed Staff to increase the municipal judges' compensation from \$325 per month to \$450 per month and the prosecuting attorney's compensation from \$250 to \$350 per month.

Per the Bennett Municipal Code, any update to the judges' salaries must be done through an ordinance. Staff has prepared a draft ordinance supporting those changes (see attachments).

Staff is in the process of executing a contract for the prosecuting attorney with an increase of the monthly salary to from \$250 per month to \$350 a month per the direction of the Board during the October 26, 2021 study session.

The salary increases will take effect on January 1, 2022.

TRUSTEE VITTUM MOVED, TRUSTEE SMITH SECONDED to approve Ordinance No. 732-21 – An ordinance establishing the salary for the municipal judge. The voting was as follows:

YES: Harrell, Pindell, Smith, Sus, Vittum

NO: None

EXCUSED: Barden, Oakley

Mayor Royce D. Pindell declared the motion passed unanimously.

5. Veterans Day Proclamation

Royce D. Pindell, Mayor, has set his and caused the seal of the Town of Bennett, Colorado to be affixed this 9th day of November, 2021, along with the Town of Bennett Board of Trustees to call upon all citizens to observe Thursday, November 11, 2021 with appropriate ceremonies in honor of those who have served to preserve the principles of justice, freedom, and democracy.

Trish Stiles, Town Administrator, reported a free meal would be once again be provided to all veterans who dine at the High Plains Diner. The Town is sponsoring the meals.

Alison Belcher, Assistant Communications Director, reported there will be no ceremony on November 11, 2021, but rather will have the ceremony and chili cook-off beginning at 5:00 p.m. at the VFW.

TRUSTEE VITTUM MOVED, TRUSTEE SMITH SECONDED that the standard cut-off time of 10:00 p.m. be void and to authorize the meeting to go on past 10:00 p.m. The voting was as follows:

YES: Pindell, Smith, Sus, Vittum, Harrell

NO: None

EXCUSED: Barden, Oakley

Mayor Royce D. Pindell declared the motion passed unanimously.

6. TOWN ADMINISTRATOR REPORT

Trish Stiles, Town Administrator, reported on the following:

- An application for the expansion of the Love's Truck stop parking area has been received by Staff. Town staff is working on a P3 (public private partnership) with CDOT to look at opportunities for a partnership for the design work with the parking area expansion.
- The ribbon cutting at SUM Financial is scheduled on November 10, 2021 at 5:00 p.m.
- Shout out to Blue Squad, Antelope Hills haunted house, who raised \$535 for the Bennett Arts Council for youth programming.
- Two full-time Community Service Officers (CSO's) have joined the Town staff. Coverage will be seven (7) days a week with alternating times. The CSO's are authorized to issue parking tickets.
- The Staff retreat was very successful.
- The Holiday Help Program is in full swing. There have been 19 families that have signed up for the program. Sponsorship for seven (7) families are still needed. Cash donations will be accepted and staff will do the shopping. Distribution for the holiday help program is scheduled on December 11, 2021. There is a link to the program on the Town of Bennett website.
- The annual Breakfast with Santa is scheduled on December 4, 2021 from 8:00 a.m. – 12:00 p.m. at the Bennett Community Center. The money raised will be used towards the Holiday Help Program.

7. TRUSTEE COMMENTS AND COMMITTEE REPORTS

Larry Vittum

Trustee Vittum reported on the following:

- Attended DRCOG on October 20.

Darvin Harrell

Mayor Pro Tem Harrell reported on the following:

- Thanked Staff for the flowers and condolences following the passing of his mother.

8. ADJOURNMENT

TRUSTEE SMITH MOVED, MAYOR PRO TEM HARRELL SECONDED to adjourn the meeting. The meeting was adjourned at 10:08 p.m. Voting was as follows:

YES: Pindell, Vittum, Harrell, Sus, Smith

NO: None

EXCUSED: Barden, Oakley

Mayor Royce D. Pindell declared the motion carried by unanimous vote.

Royce D. Pindell, Mayor

Christina Hart, Town Clerk

**BUILDING CODE BOARD OF APPEALS
HEARING SCRIPT**

MAYOR: I will now open the hearing on a Building Code appeal filed by Gary Vance. This hearing is being held pursuant to Section 113 of the International Building Code for an appeal of the Building Official's decision regarding the property at 215 Kiowa Avenue.

The purpose of the hearing is to receive information to enable the Board to determine whether the Building Official's decision should be affirmed or modified.

This is an informal hearing. Evidence rules need not be followed and the Board will consider any information relevant to the appeal.

The order of the hearing will be as follows:

FIRST, I am going to ask Mr. Vance to make any opening statement he would like to make and then present his appeal.

NEXT, there will be a presentation by Town staff, followed by Mr. Vance's opportunity to ask questions of Town staff.

After these two presentations we will allow people who signed up to speak to speak for up to 3 minutes each.

THEN, Mr. Vance and Town staff may make their closing statements.

The Board will discuss the matter and may take some kind of action.

MAYOR: Do we have proper notification?

[Town Clerk to confirm on record notice has been provided]

Do any Board members have any disclosures?

[Board members to disclose conflicts of interests, ex parte contacts, etc.]

MAYOR: Mr. Vance, please state your name and address for the record and then present your appeal.

[Applicant presentation]

Mr. Vance, do you want to call any witnesses to testify about this matter?

[Witness presentation]

Will Town staff make its presentation?

[Staff presentation]

Town staff, do you want to call any witnesses to testify about this matter?

[Witness presentation]

Mr. Vance, do you have any questions for anyone who has testified?

[Question and Answer]

Do any of the Trustees have questions for anyone who has testified?

[Question and Answer]

MAYOR: I will now open the public comment portion of the hearing. For those wishing to speak, please clearly state your name and address for the record. We will allow people to speak for up to 3 minutes each. Please DO NOT REPEAT points made by others. It is fine to say, "I agree with the previous speaker's comments".

Has anyone signed up to speak at this hearing?

[If more than one person has signed in, call them in order.]

Is there any interested party in the audience that has not signed up but who wishes to speak regarding the appeal?

[Additional public comment]

If there is no more public comment, I will now close the comment portion of the hearing.

MAYOR: Mr. Vance, do you want to respond to any of the comments or make a closing statement?

[Opportunity for applicant to provide any rebuttal evidence/closing statement]

MAYOR: Town staff, do you want to respond to any of the comments or make a closing statement?

[Opportunity for staff to provide any rebuttal evidence/closing statement]

MAYOR: Before we turn to Board member questions and deliberation, I want to state that the documents included within the record for this hearing include all materials in the Board packet; any powerpoint or other presentations given tonight; the materials presented by Mr. Vance tonight; the notice; and Town's building code ordinance and other applicable regulations. Does anyone have any objection to inclusion of these items in the record?

MAYOR: I will now close the public comment portion of the hearing and the Board members will deliberate on the evidence presented. During deliberations, Board members may ask questions of Town staff and Mr. Vance, but no further testimony or evidence will be received.

Who would like to begin?

Who is next?

Any other questions or comments?

PROPOSED MOTIONS

The Board may adopt one of the following motions:

1. "I move that the Board find that the Building Official's decision should be affirmed, subject to the conditions set forth in the Town's staff report, and that the Town Attorney be directed to prepare final findings, conclusions and an order based on the Board's decision."
2. "I move that the Board find that the applicant has presented sufficient evidence that (*choose one or more*):
 - a. The true intent of the International Building Code has been incorrectly interpreted.
 - b. The provisions of the International building Code do not fully apply

c. An equally good or better form of construction is proposed.

And that the Building Code Official's decision shall be modified and that the Town Attorney be directed to prepare final findings, conclusions and an order based on the Board's decision."

3. "I move that the Board continue this hearing until _____, 20__."

STAFF REPORT



welcome neighbors.

TO: Mayor and Town of Bennett Board of Trustees
FROM: Sara Aragon, Community Development Manager
Tom Pitchford, Chief Building Official
DATE: November 23, 2021
SUBJECT: Building Code Appeal - 215 Kiowa Ave, Tymanike Apartment Decks

Background

On October 12, 2021 a building code appeal was brought to the Mayor and Board of Trustees. The outcome of that hearing is outlined in the motion below:

"TRUSTEE VITTUM MOVED, TRUSTEE BARDEN SECONDED no action be taken this evening for the purpose of allowing the Building Department to inspect the original architectural drawings of this property and also to allow the Building Department to, after removing siding, inspect the material that the lag bolts will be driven into. The voting was as follows:

YES: Smith, Sus, Vittum, Barden, Harrell, Oakley

NO: None

RECUSED: Pindell

Mayor Pro Tem Darvin Harrell declared the motion passed unanimously. "

After reflection on the last hearing on this matter, I realized I could have been more detailed in my previous presentation. For this appeal, I've provided information regarding the timeline for this event as well as more background on the department and department processes.

The Town of Bennett is growing. As of November 17, the Building Department has issued 645 permits. That is an increase of approximately 38% from the 399 building permits issued in 2020 and a 71% increase from the 184 building permits issued in 2019.

The Building Department reviews and inspects all building permits and issues and coordinates all other permits (e.g., development, public works, etc.). Department Staff also work closely with Public Works, the Town Engineer and Planning Departments on many different items, including coordinating and tracking all development happening within the Town (e.g., development agreement milestones, inspections, acceptance of public improvements, etc.). The department's inspectors, Tom Pitchford in particular, have been a huge part of the development inspections and have supported the Town through the growth process. The department's administrative staff, Sara Aragon and Savannah Vickery, are also involved with every planning case that comes to the Town by providing information and support, sending out referrals to referral agencies and tracking all necessary timelines. Staff is responsible for Variances, Temporary Use Permits and Conditional Use Permits. The Building Department is a highly productive team that is not only invested in the Town by takes personal pride in the work it does. Staff understands that there is always room for improvement and we are constantly working towards making our processes and service better.

Town Board Role

Per Sec. 18-1-10 of the Bennett Municipal Code, the Town has adopted by reference the 2018 International Building Code (IBC) as the Town of Bennett Building Code. This includes Section 113.1 of the IBC, which requires the Town to have a Building Code Board of Appeals to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of the IBC.

In Bennett, the Board of Trustees serves as the Building Code Board of Appeals. See Section 18-1-20(i) of the Bennett Municipal Code. When an application to the Board of Appeals is made, it shall be based on a claim that:

1. the true intent of the IBC or the rules legally adopted thereunder have been incorrectly interpreted;
2. the provisions of the IBC do not fully apply; or
3. an equally good or better form of construction is proposed.

The Board does not have authority to waive requirements of the IBC. See IBC 113.2.

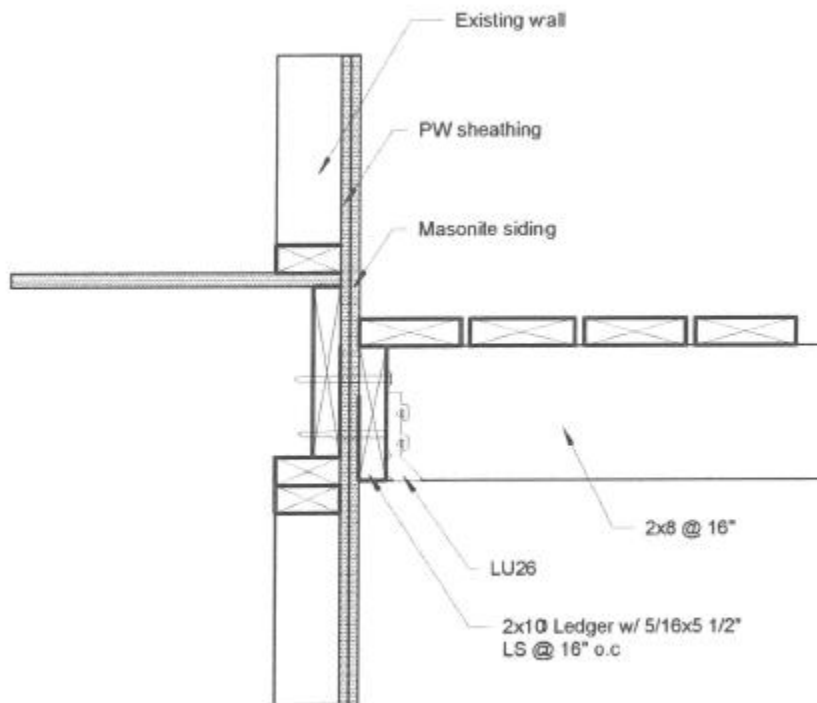
The appeal before the Board of Trustees is associated with the property at 215 Kiowa Ave. and the attachment of the replacement decks.

Below is an excerpt from IBC Section 1604.8.3. that outlines the expectation for securely attaching decks to an exterior wall:

Where supported by attachment to an exterior wall, decks shall be positively anchored to the primary structure and designed for both vertical and lateral loads as applicable. Such attachment shall not be accomplished by the use of toenails or nails subject to withdrawal. Where positive connection to the primary building structure cannot be verified during inspection, decks shall be self-supporting. Connections of decks with cantilevered framing members to exterior walls or other framing members shall be designed for both of the following:

1. *The reactions resulting from the dead load and live load specified in Table 1607.1, or the snow load specified in Section 1608, in accordance with Section 1605, acting on all portions of the deck.*
2. *The reactions resulting from the dead load and live load specified in Table 1607.1, or the snow load specified in Section 1608, in accordance with Section 1605, action on the cantilevered portion of the deck, and no live load or snow load on the remaining portion of the deck.*

The plans submitted for this project do not meet the IBC requirements referenced above. There is no positive attachment to the primary structure. Between the deck and the primary structure there is Masonite Siding as well as PW Sheathing (see the plan below). Though this design was stamped by an engineer, it does not meet the requirements of the IBC.



Based on the plans not meeting the requirements of the IBC, the building official informed Mr. Vance that his plans were not approved and that he must submit new plans for the decks that conform to the requirements of IBC Section 1604.8.3. Mr. Vance is appealing the building official's decision. The basis for Mr. Vance's appeal is set forth in his September 24, 2021, email to Ms. Stiles (attached), which states:

The code you refer in the IBC only addresses positive attachment to the building. I have positive attachment and the decks are built better than before and the building dept have not provided me with the code I have violated. I feel that they have misinterpreted the code and I am requesting an appeal.

Update on Events since Previous Hearing

- The Owner (Gary Vance) submitted the original plans from when the building was built.
- The Building Department reviewed the plans and returned comments to Mr. Vance on 10/25/2021. Mr. Vance still did not respond to the comments or make arrangements with the Building Department to address concerns and have the property permitted and inspected. See attached comments and email correspondence.
- Charles Abbot and Associates also reviewed the plans and sent comments to Mr. Vance on 11/10/2021. See attached plan review comments.
- Mr. Vance spoke during the public comment portion of the Board Meeting on November 9, 2021, initiating this hearing.

Timeline

Below is the timeline of events leading up to the appeal application. Supporting documentation is attached to this report.

The attachments are also available in a SmartSheet that can be found at the link below.

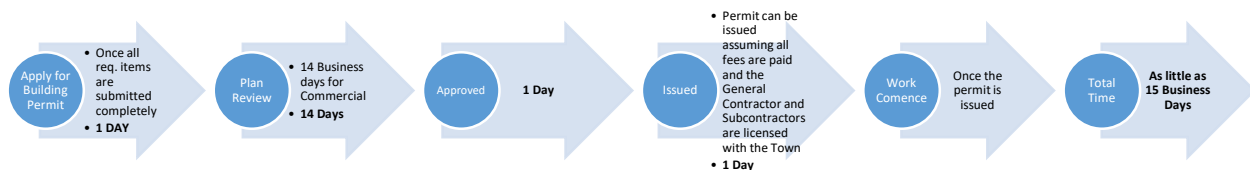
<https://app.smartsheet.com/b/publish?EQBCT=4884b64eb5614503bd34109ec789629e>

Communication	Date	Outcome
Stop Work Order Issued	8/13/2021	Bob Chappel (Town Building Inspector) posted a stop work order at 215 Kiowa Ave (Tymanike Apartment Building) for work taking place to replace decks without a permit. The contractor that was on site was the building owner's son. Bob talked with Mr. Vance on his son's (also Mr. Vance) phone and instructed them to secure the door going out to the balcony, shore up the corner and to cover the unfinished deck before they left the site.
Building Official Meeting with Owner	8/17/2021 or 8/18/2021	The Building Official met with Mr. Vance in the lobby of Town Hall. Mr. Pitchford reviewed the options to get the stop work order resolved as well as what would be possible solutions for the decks that had already been replaced without approval or permits.
Owner Email Requesting Deck Information	8/18/2021	Mr. Vance contacted Ms. Aragon via email to discuss the decks at the apartment building. Ms. Aragon was out of the office and forwarded it to Savannah Vickery (the Town permit tech) to have her answer his questions.
Contractor License Applied For	8/19/2021	Nick Bradley (Owner of Colorado General Contracting) submitted a Town contractor license application to Ms. Aragon and it was forwarded it on to our Building Department main email address. This license still has not been issued, because the Town is waiting on proof of worker's compensation insurance (or waiver for it) and payment.
Permit Application and Plans submitted to the Building Department	8/23/2021	The permit was put in "plan review" status. At the time, Mr. Pitchford was on vacation but as a courtesy to Mr. Vance, Ms. Aragon emailed Mr. Pitchford the plans and Staff discussed them over the phone.
Letter to Community Development Manager from Owner	8/23/2021	A letter was dropped off at Town Hall by Mr. Vance. Ms. Aragon responded via email to Mr. Vance on August 24, 2021. It took a day to get back to him as Staff was gathering all of the information associated with the situation.
Plan Review Update	8/30/2021	Around August 30, Ms. Aragon notified Mr. Vance by phone that the plans would not be approved with the drawing submitted because it did not meet the code minimum (either positive attachment or using supports). He was also emailed the same information from the Building Department email address on the same day.

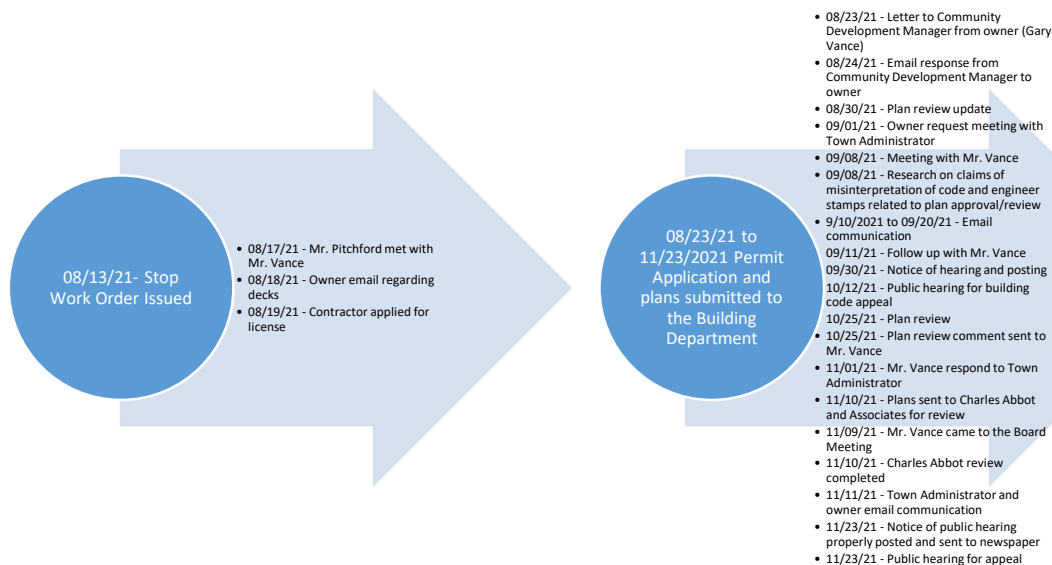
Owner Request for Meeting with Town Administrator	9/1/2021	Mr. Aragon was notified by the Town Administrator that Mr. Vance wanted to meet to discuss the result of the plan review
Meeting with Mr. Vance	9/8/2021	The Town Administrator and Ms. Aragon met with Mr. Vance to hear his concerns and see if a mutual agreement could be reached regarding this matter.
Research on claims of misinterpretation of code and engineer stamps related to plan approval/review	9/8/2021	<p>Much of Mr. Vance's concern in our meeting appeared to be related to the Town approval process in regard to having an engineer stamped drawing. It was his opinion that if it has an engineer stamp, it should essentially be approved and that our Building Official was being unreasonable by not making an exception in his case.</p> <p>Ms. Aragon did reach out to both the Town Engineer and Charles Abbot and Associates (the Town's back up for building services) and was able to confirm with them that regardless of an engineer's stamp, the code minimums must still be adhered to.</p>
Follow up with Mr. Vance	9/11/2021	Ms. Aragon emailed Mr. Vance on September 11 to update him with the outcome of the Town's research and consultation with the individuals listed in the previous section.
Email Communication	9/10/2021 to 9/20/2021	Throughout these dates, there were multiple email communications between Town Staff and Mr. Vance (or a representative of his team) regarding the code in question and the appeals process. Those emails have been included as an attachment to this report.
Notice of Hearing	9/24/2021	The official request for an appeal was received.
Notice to Newspaper	9/28/2021	The public hearing notice was submitted to the Town Clerk for a hearing on October 12, 2021.
Notice to Tenants	9/29/2021	A notice to each tenant in the apartment building was delivered to each door.
Notice to Appeal Applicant	9/30/2021	The public hearing notice was sent via Certified Mail to the address on file for Mr. Vance.
Public Hearing for Building Code Appeal	10/12/2021	The public hearing took place for the building code appeal
Plan Review	10/12/2021 to 10/25/2021	The Building Department reviewed the new submittal of the original building plans and returned comments to Mr. Vance.
Owner email to Town Administrator	11/01/2021	Mr. Vance emailed the Town Administrator regarding the plan review comments
Plans Sent to Charles Abbot and Associates for Review	11/01/2021 to 11/10/2021	The Town asked Charles Abbott and Associates to review the plans and they also returned comments to Mr. Vance
2nd Appeal Request	11/09/2021	Mr. Vance requested a second appeal via public comments at the regular meeting of the Board of Trustees.

Owner and Town Administrator Email Communication	11/10/2021	See attached email correspondence
Notice of Public Hearing and Posting	11/10/2021 to 11/23/2021	The public hearing was posted and published.

General Permit Process (Commercial)



Process to Date for 215 Kiowa Ave



Staff Findings

Staff finds that the plans submitted by the applicant do not meet the requirements of IBC Section 1604.8.3.

The owner has been given alternative methods to complete this project that do not require complete removal of the decks that were built without a permit; however, Mr. Vance has chosen not to move forward with those options.

One of the major issues in question is the Masonite Siding that is located between the Deck and the Primary Structure. This material is not an approved structural material per International Code Council (ICC). In order for the project to proceed, the siding around the connection would need to be removed and replaced with an approved material. The building code does allow for an applicant to provide an alternative material if they can provide approved testing (per Section 1703 of the IBC) that the material meets the applicable requirements.

Per the Board of Appeals request from the public hearing on October 12, 2021, Mr. Pitchford requested that the applicant open the deck siding at the deck ledger locations to provide a connection but the applicant did not remove the siding as requested. This request was included in the additional comments sent to Mr. Vance but he did not contact the department to move forward.

This project was started without a permit and the work that was completed does not meet the requirements of the IBC. Had the applicant/owner obtained a permit before starting the scope of work, it would have provided the Town an opportunity to review the plans and educate the owner on what would be required per the IBC.

Town Staff and Administration have dedicated a significant amount of time trying to accommodate the situation and find solutions that meet building code minimums while also having the least amount of impact to the property owner and tenants.

Staff Recommendations

Staff recommends that the Town Board of Trustees does not grant this appeal and includes the following conditions moving forward:

1. The owner/applicant submits new permits and plans that meet the code requirements for this project within 14 business days.
2. The owner shall complete the approved scope of work no longer than 30 days after obtaining a building permit.
3. If the owner/applicant does not comply, they shall be cited for “work without a permit.”

Attachments

1. Original Appeal Letter
2. Original Building Permit/Plans Submitted
3. Original Plan Review Comments
4. Email Conversations with the Owner/Applicant (Prior to First Hearing)
5. Mr. Vance Letter to Community Development Manager and Response (Prior to First Hearing)
6. New Notices to Newspaper, Owner and Tenants
7. IBC Section 1604.8.3 - Decks
8. IBC Section 113 - Board of Appeals
9. Sec. 18.1.20 (h) and (i) of the Bennett Municipal Code regarding the Board of Appeals
10. Staff Report from First Hearing
11. Most Recent Plan Review Comments from Town
12. Plan Review Comments from Charles Abbot and Associates
13. Email Communication since First Hearing
14. PowerPoint Presentation



Sara Aragon <saragon@bennett.co.us>

Re: formal appeal

Gary Vance <doctorskier@gmail.com>

Fri, Sep 24, 2021 at 9:00 AM

To: "Trish Stiles, Town Administrator" <tstiles@bennett.co.us>

Cc: Sara Aragon <saragon@bennett.co.us>

the code you refer to in the ibc only addresses positive attachment to the building i have positive attachment and the decks are built better than before and the building dept have not provided me with the code i have violated . i feel that they have misinterpreted the code and i am requesting an appeal

[Quoted text hidden]



207 Muegge Way • Bennett, CO 80102
Tel: (303) 644-3249 Fax: (303) 644-4125
www.townofbennett.org

BUILDING PERMIT APPLICATION			
DATE: <u>8/20/21</u>		PERMIT # _____	
TO BE COMPLETED BY APPLICANT			
Property Owner Name: <u>GARY VANCE</u>		Phone: <u>303-910-5949</u>	Email: <u>DOCTORSKIER@GMAIL.COM</u>
Project Address: <u>215 KIOWA</u>		Mailing Address (if different): <u>3545 HASKELL PLACE</u>	
City: <u>BENNETT</u>	State: <u>CO</u>	Zip: <u>80102</u>	City: <u>WATKINS</u> State: <u>CO</u> Zip: <u>80137</u>
CONTRACTOR INFORMATION***List additional contractors on Sub-Contractor Signature Form, all Sub-Contractors must have valid Town of Bennett Contractor License or Registration.			
1. (circle one) <input checked="" type="checkbox"/> General <input type="checkbox"/> Plumber <input type="checkbox"/> Electrician <input type="checkbox"/> Mechanical		Address: <u>10935 Acaola Ln</u>	
Name: <u>COLORADO GENERAL CONTRACTORS</u>		City: <u>PARKER</u>	State: <u>CO</u> Zip: <u>80138</u>
Email: <u>COLORADO.GC.1@GMAIL.COM</u>		Phone: <u>720-365</u>	TOB Lic #: _____ Exp: _____
2. (circle one) General <input type="checkbox"/> Plumber <input type="checkbox"/> Electrician <input type="checkbox"/> Mechanical		Address: <u>1344</u>	
Name: _____		City: _____	State: _____ Zip: _____
Email: _____		Phone: _____	TOB Lic #: _____ Exp: _____
3. (circle one) General <input type="checkbox"/> Plumber <input type="checkbox"/> Electrician <input type="checkbox"/> Mechanical		Address: _____	
Name: _____		City: _____	State: _____ Zip: _____
Email: _____		Phone: _____	TOB Lic #: _____ Exp: _____
PARCEL INFORMATION			
Subdivision: _____	Parcel #: _____	Lot: _____	Block: _____
Zoning: _____	Distance from lot line: N _____ S _____ E _____ W _____ Corner lot? _____		
TO BE COMPLETED BY APPLICANT - PROJECT INFORMATION			
TYPE OF IMPROVEMENT: <input type="checkbox"/> NEW BUILDING <input type="checkbox"/> ADDITION <input checked="" type="checkbox"/> REMODEL/FINISH <input checked="" type="checkbox"/> REPAIR/REPLACEMENT <input type="checkbox"/> MOBILE HOME <input type="checkbox"/> OTHER		PROPOSED USE: RESIDENTIAL <input type="checkbox"/> Single Family <input type="checkbox"/> Multi Family # of units _____ <input type="checkbox"/> Hotel, Motel, Dormitory # of units _____ <input type="checkbox"/> Garage: Single Double Attached Detached <input type="checkbox"/> Carport: Attached Detached <input type="checkbox"/> Patio: Attached Detached <input type="checkbox"/> Basement: Partial Full Finished Unfinished <input type="checkbox"/> Other: _____	
Description of Work: <u>REPAIR & REPLACE DECKS</u>			
FOR NEW RESIDENTIAL WHEN SAME HOUSE MODEL IS BUILT AGAIN PLAN # ON FILE _____ OPTION # _____		COMMERCIAL <input type="checkbox"/> Shell only <input type="checkbox"/> Tenant Finish <input type="checkbox"/> Telecommunications Facility <input type="checkbox"/> Remodel/Addition <input type="checkbox"/> New Building	
TOTAL VALUE (INCLUDES MATERIAL & LABOR): \$ _____		ELECTRICAL VALUATION: \$ _____	
Construction Type: <input type="checkbox"/> Wood Frame <input type="checkbox"/> Structural Steel <input type="checkbox"/> Masonry <input type="checkbox"/> Manufactured home <input type="checkbox"/> Other _____	Square Footage: Main floor _____ Additional floors _____ Basement _____ Crawlspace _____ Decks <u>50 FT²</u> Garage _____ Other _____ # of bedrooms _____ # of baths - Full <u>3/4</u> _____ 1/2 _____ Stories _____	Type of Sewage Disposal: <input type="checkbox"/> Public <input type="checkbox"/> Septic Type of Water: <input type="checkbox"/> Tap size <input type="checkbox"/> Supplies	
Type of Mechanical: <input type="checkbox"/> Central Air Conditioning <input type="checkbox"/> Electric <input type="checkbox"/> Hydronic Heating Fuel Type: <input type="checkbox"/> Gas NG or LP <input type="checkbox"/> Electric <input type="checkbox"/> Solar <input type="checkbox"/> Other _____			

Telecommunications Facility

Outside Public ROW Height _____ Inside Public ROW Height _____ Change in Height _____ Change in Width _____

Change to existing (In Public ROW) _____ Change to existing _____ # of electrical cabinets _____

- ☐ Excavation or deployment outside current site
☐ Non-compliance of existing original conditions

Reference Telecommunications Facility Submittal Requirements*Applicant must read and initial the following:**

1. The applicant, his agents and employees shall comply with all rules, restrictions and requirements of the Town and building codes governing location, construction and erection or the above proposed work for which the permit is granted. _____
2. The Town or its agents are authorized to order the immediate cessation of construction at any time a violation of the codes or regulations appears to have occurred. Violation of any of the codes or regulations applicable may result in the revocation of this permit. _____
3. Buildings MUST conform with plans, as submitted to the Town. Any changes of plans or layouts must be approved prior to the change being made. Any change in the use or occupancy of the building or structure must be approved prior to proceeding with construction. _____
4. The Applicant is responsible for ascertaining true & correct locations of all property, right of way, & easement lines. If encroachments on land other than that owned by the property owner are discovered after installation of improvements, the property owner may be required to remove the improvements at their expense. _____
5. The Applicant is required to call for inspections at various stages of the construction, and in accordance with the aforesaid rule, the applicant shall give the building inspector not less than one day's notice to perform such activities. _____
6. In the event construction is not commenced within 180 days of issuance of their permit, then the same is automatically void. Cessation of work for a period of 180 continuous days shall also cause the permit to be void. _____

***Permits are not transferable.**

APPLICANT SIGNATURE: _____

*Gay M Vance*DATE: 8-23-21**FOR OFFICIAL USE ONLY****BUILDING PERMIT FEES****DEVELOPMENT/IMPACT FEES****Permit Fees**

Building Permit \$ _____
 Plan Review \$ _____
 Electrical \$ _____
 Construction Meter \$ _____

Taxes

2% Use Tax \$ _____
 .25% Arapahoe Open Space Tax \$ _____

Miscellaneous

Stop Work Order \$ _____
 Other \$ _____

SUBTOTAL PERMIT FEES \$ _____

DEVELOPMENT/IMPACT \$ _____

TOTAL DUE \$ _____

Water and Waste Water

Water Development Fee \$ _____
 Water Tap Inspection \$ _____
 Sewer Development \$ _____
 Sewer Tap Inspection \$ _____
 Meter Pit/charges \$ _____

Impact

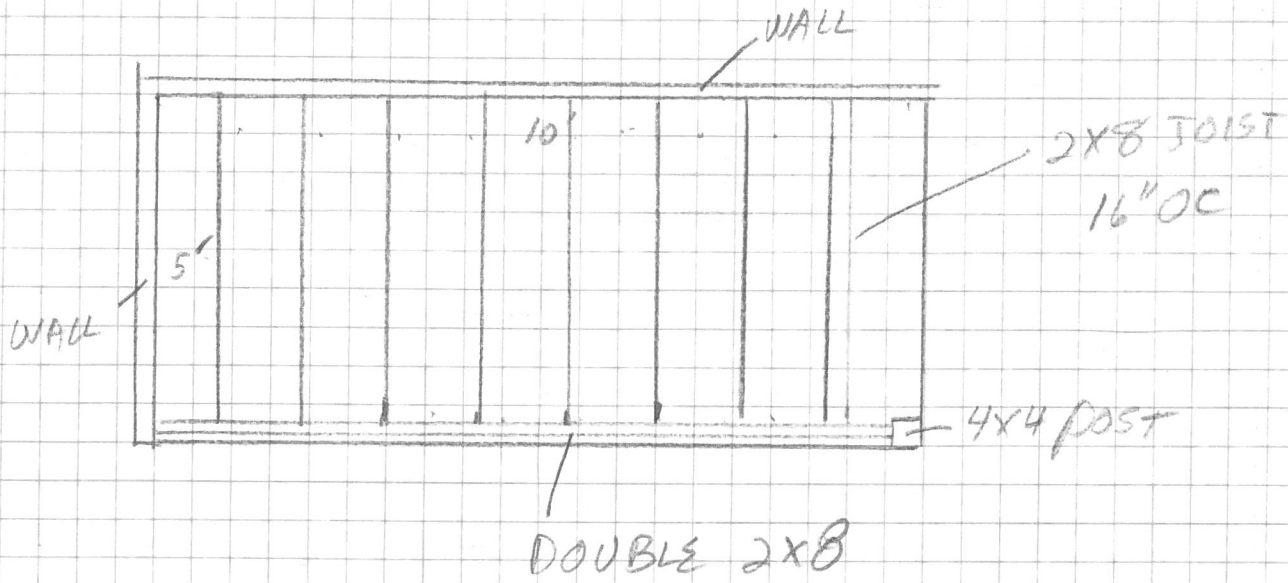
Park/Recreation \$ _____
 Park/Recreation \$ _____
 Police Facilities \$ _____
 Public Facilities \$ _____
 Transportation Facilities \$ _____
 Storm Drainage \$ _____

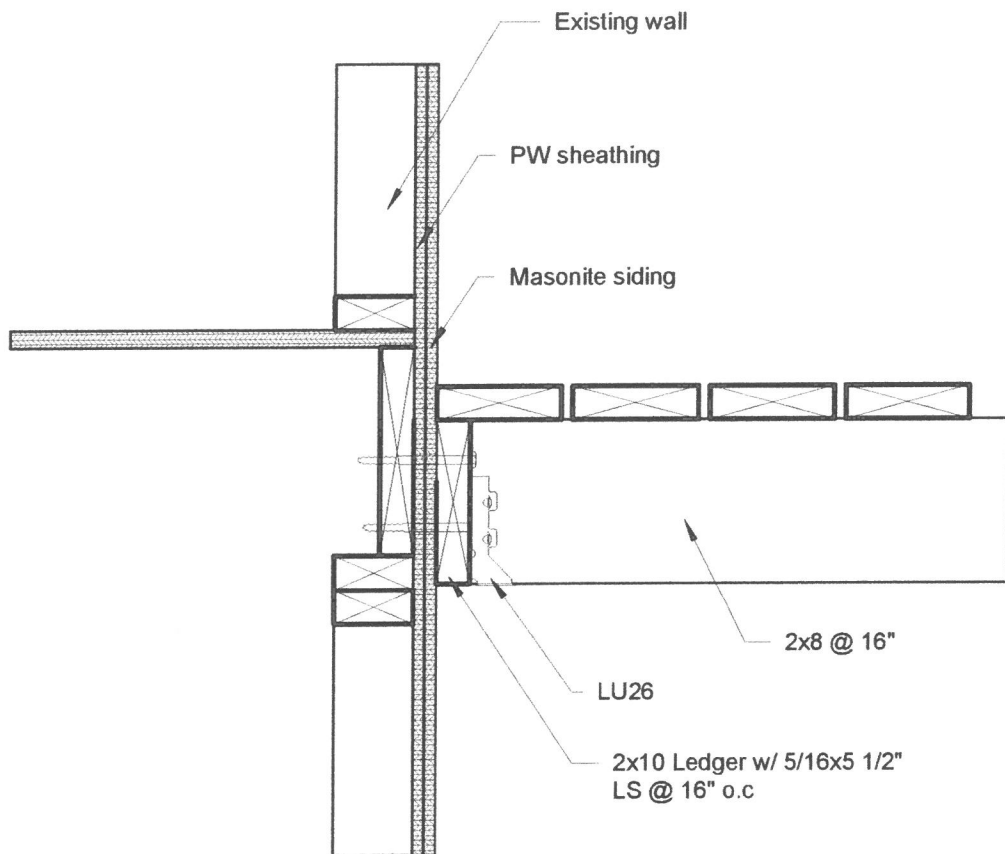
SUBTOTAL DUE \$ _____

APPLICATION ACCEPTED BY:	DATE:	COMMENTS:
BUILDING DEPARTMENT:	DATE:	COMMENTS:
BUILDING OFFICIAL:	DATE:	COMMENTS:
BENNETT FIRE PROTECTION DIST:	DATE:	COMMENTS:
PUBLIC WORKS:	DATE:	COMMENTS:
ENGINEERING:	DATE:	COMMENTS:
PLANNING/ZONING:	DATE:	COMMENTS:
ZONING ADMINISTRATOR:	DATE:	COMMENTS:

215 KIOWA

$\frac{1}{4}" = 6"$





① Balcony Framing 2
1 1/2" = 1'-0"

**Gunnison
Enterprises Inc.**
558 Castle Pines Pkwy B4-327
Castle Rock CO 80108
303-332-7208 303-215-1725 Fax

215 Kiowa
Bennett

connection to the building

Project number	G-633
Date	8/19/21
Drawn by	SL
Checked by	Checker

S 1.0

Scale As indicated **Page 24**

8/20/2021 8:09:13 AM



TOWN OF BENNETT COMMERCIAL PLAN REVIEW COMMENTS

Project Description: **Remove and replace Decks**

Project Address: **215 Kiowa Ave**

Permit App. Date: 08-24-2021

Application BP2020-391

Applicant Contact: Colorado General Contracting

Email: Colorado.gc.1@gmail.com

Phone: 720-365-1344

Plan's Examiner: **Thomas Pitchford**

Phone: **(303) 644-3249 ext 1025**

Examiner's Email: tpitchford@bennett.co.us

☒

1st Review:

☐

2nd Review:

Italic comments

☐

3rd Review:

Bold Comments By Appt.

The project plans were reviewed for compliance with the following codes and standards:

2018 IBC, 2018 IRC

The code section references are from the 2018 IBC, unless otherwise stated.

- 1) **Connection of Deck ledger to primary structure must meet the requirements of Sec. 1604.8.3 (Decks) Direct Positive connection to the primary structure is required.**

Resubmittal will need to be new complete set of plans and required documents as requested. Resubmittal is required to contain a detailed narrative as to all changes and their locations including page, detail #, etc. As applicable.

Thank you.



Sara Aragon <saragon@bennett.co.us>

Email

6 messages

Sara Aragon <saragon@bennett.co.us>

Wed, Sep 22, 2021 at 5:05 PM

To: Gary Vance <doctorskier@gmail.com>, Trish Stiles <tstiles@bennett.co.us>

Hi Gary,

I just wanted to let you know that I am putting together the information that you requested in the Building Department email last night. I should have it for you tomorrow. I just wanted to let you know that your email was received and we are processing your request.

Thank you, have a great night.



Sara Aragon | Community Development Manager
207 Muegge Way | Bennett CO, 80102
(303)644-3249 ext.1012 | saragon@bennett.co.us
townofbennett.colorado.gov

Gary Vance <doctorskier@gmail.com>

Wed, Sep 22, 2021 at 5:57 PM

To: Sara Aragon <saragon@bennett.co.us>

my appeal applies to section R 507.9.1.3 910

[Quoted text hidden]

Gary Vance <doctorskier@gmail.com>

Wed, Sep 22, 2021 at 5:58 PM

To: Sara Aragon <saragon@bennett.co.us>

r 507.9.1.3(1) sorry for the typo

[Quoted text hidden]

Sara Aragon <saragon@bennett.co.us>

Thu, Sep 23, 2021 at 1:01 PM

To: Gary Vance <doctorskier@gmail.com>, Trish Stiles <tstiles@bennett.co.us>, Thomas Pitchford <tpitchford@bennett.co.us>, Robert Chappel <rchappel@bennett.co.us>

Bcc: Savannah Vickery <svickery@bennett.co.us>

Good Morning Gary,

Hi Gary,

In reference to the question that you submitted to the Building Department email address yesterday:

"can you send me the codes that show i cannot repair the decks to a method that was approved at the time of when the building was built? thank you".

I have provided you with the information that I believe that you are looking for. I am also including both Tom (Building Official) and Robert Chappel (Building Inspector). Either one of them can answer further questions related directly to the Building Code.

I have included a link to the Town Municipal Code (Chapter 18 specifically), where the ICC Codes are adopted.

https://library.municode.com/co/bennett/codes/municipal_code?nodeId=CH18BURE

Page 26

I have also included an attachment, this is from the 2018 Existing Building Code. If you see section [BS]302.5.1. This is related to structural repairs, alterations, additions and changes of occupancy in existing buildings. The summary is that anything structural does need to follow the IBC for new buildings. I am also including a link to the ICC website where you can view all of the 2018 Codes for free. We do of course have physical copies in Town Hall that you can view if you set up an appointment with the Town Clerk. I will also include that I do believe it is referenced in the Existing Building Code in at least one other place. In reference to your email regarding "r 507.9.1.3(1)", that is a code in the IRC, your building falls under the IBC.

https://codes.iccsafe.org/content/IEBC2018P5/chapter-3-provisions-for-all-compliance-methods#IEBC2018P5_Ch03_Sec301

Please let me know if you have any questions.

Thank you!

SECTION 302
GENERAL PROVISIONS

302.1 Applicability.

The provisions of Section 302 apply to all alterations, repairs, additions, relocations of structures and changes of occupancy regardless of compliance method.

--

302.2 Dangerous conditions.

The code official shall have the authority to require the elimination of conditions deemed dangerous:

302.3 Additional codes.

Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy or relocation, respectively, in this code and the International Energy Conservation Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Private Sewage Disposal Code, International Property Maintenance Code, International Residential Code and NFPA 70. Where provisions of the other codes conflict with provisions of this code, the provisions of this code shall take precedence.

302.4 Existing materials.

Materials already in use in a building in compliance with requirements or approvals in effect at the time of their erection or installation shall be permitted to remain in use unless determined by the building official to be unsafe.

302.5 New and replacement materials.

Except as otherwise required or permitted by this code, materials permitted by the applicable code for new construction shall be used. Like materials shall be permitted for repairs and alterations, provided that unsafe conditions are not created. Hazardous materials shall not be used where the code for new construction would not permit their use in buildings of similar occupancy, purpose and location.

[BS] 302.5.1 New structural members and connections.

New structural members and connections shall comply with the detailing provisions of the International Building Code for new buildings of similar structure, purpose and location.

Exception: Where alternative design criteria are specifically permitted.

302.6 Occupancy and use.

Where determining the appropriate application of the referenced sections of this code, the occupancy and use of a building shall be determined in accordance with Chapter 3 of the International Building Code.



Sara Aragon | Community Development Manager
207 Muegge Way | Bennett CO, 80102
(303)644-3249 ext.1012 | saragon@bennett.co.us
townofbennett.colorado.gov

[Quoted text hidden]

Gary Vance <doctorskier@gmail.com>
To: Sara Aragon <saragon@bennett.co.us>

Thu, Sep 23, 2021 at 2:40 PM

yes the section i referred to is in the 2018 building code sect 5 under floors it states the attachments of the ledger and what the sheathing can consist of including foam and i do have access to the code thank you again

[Quoted text hidden]

Gary Vance <doctorskier@gmail.com>
To: Sara Aragon <saragon@bennett.co.us>

Thu, Sep 23, 2021 at 9:11 PM

i ask for the specific code i violated

[Quoted text hidden]



Sara Aragon <saragon@bennett.co.us>

Decks

2 messages

Sara Aragon <saragon@bennett.co.us>
To: doctorskier@gmail.com
Bcc: Savannah Vickery <svickery@bennett.co.us>

Tue, Aug 24, 2021 at 3:34 PM

Hi Mr. Vance,

I did receive your letter and application regarding the deck at your property. I do apologize that I asked one of our staff to reach out, I was out of the office for a funeral.

I assure you, Tom is following the building code. Replacing entire decks in an occupied apartment building does require engineered drawings. If this were a situation that you were simply replacing a board or two of decking or a broken rail in the railing that would be considered maintenance. However, you were removing the entire deck and replacing the joists and all of the decking and railing, that scope of work does trigger a building permit.

Regardless of when a building is built, if you make updates such as replacing entire decks, it is required for them to be designed and built per the current code, not the code that the building was originally built under.

I am not entirely sure what code Adams County follows or how they approve plans or inspections, we are a separate jurisdiction from them. While they may just simply approve plans or inspections if they are stamped or completed by an engineer, that is not the process we follow.

I do understand your frustration with the whole situation, however our inspectors job is to ensure that projects are built to meet the code minimums. Moving forward, to avoid this in the future, we are happy to answer questions regarding any projects you plan on doing to let you know if you need a building permit so you can get it ahead of the work and ensure that it meets requirements. We will get this submitted for plan review and let you know when your permit/plans have been approved.

I am sorry you feel frustrated, I do understand. Our building inspectors number one priority is life and property safety. Please let me know if you have any questions.

Thank you,



Sara Aragon | Community Development Manager
207 Muegge Way | Bennett CO, 80102
(303)644-3249 ext.1012 | saragon@bennett.co.us
townofbennett.colorado.gov

Gary Vance <doctorskier@gmail.com>
To: Sara Aragon <saragon@bennett.co.us>

Tue, Aug 24, 2021 at 4:34 PM

i feel this has nothing to do with safety its about the "code" which my engineer and Adams county have said the performance method of engineering can be used as opposed to the prescriptive method . The decks were very unsafe in the shape they were in and i tried to remedy that . I have have now done my do diligence and it sounds as if thats to no avail According to Tom the only thing in Question is the 1/2 inch of siding behind the decks But thank you for responding

[Quoted text hidden]



Sara Aragon <saragon@bennett.co.us>

Follow Up

5 messages

Sara Aragon <saragon@bennett.co.us>

Sat, Sep 11, 2021 at 4:53 AM

To: doctorskier@gmail.com, Trish Stiles <tstiles@bennett.co.us>

Hi Gary,

Thank you for coming in yesterday. I wanted to follow up and let you know that we did look into this matter further. We touched base with both our Town Engineer as well as the Town's back up Building Official. After discussing this matter with each of them, we have determined that Tom is within the International Building Code guidelines in regard to this review. We also wanted to ensure that we were not being unreasonable by not simply approving a plan because an engineer has stamped it. We did confirm with both of the parties previously mentioned and just because an engineer stamps a plan, does not mean that it will be approved per the Building Official. We do still have to review plans for code compliance, unfortunately in this case, the plan that was submitted does not meet the minimum requirement set in the adopted building code. The code does give a couple of options on how to meet the minimum requirements in this case.

We do understand the stress and frustration that this situation has caused you and I am sorry that you have been in distress due to it. Unfortunately, in this case there is not an exception that can be made, we do have to make sure that the building code adopted in our municipal code is followed. Some codes do have a grey area, the code that applies to this project is a prescriptive code and you will have to meet the minimum requirements or exceed them. I know that this situation has caused you much stress and I appreciate you coming to meet with us and voicing your concerns. I know that when these things happen, it can be hard to see but our goal really is life and property safety. It is our number one priority.

Please feel free to reach out to me if you have any additional questions. Thank you for your time and patience with this matter. I have attached the official plan review comments for the plans that you submitted. We do need you to submit new plans that meet one of the options provided in the IBC for this project. I hope moving forward we can work together to avoid this stress for you in the future.

Thank you,



Sara Aragon | Community Development Manager
207 Muegge Way | Bennett CO, 80102
(303)644-3249 ext.1012 | saragon@bennett.co.us
townofbennett.colorado.gov



215 Kiowa Decks.pdf

192K

Gary Vance <doctorskier@gmail.com>

Sat, Sep 11, 2021 at 8:13 AM

To: Sara Aragon <saragon@bennett.co.us>

did not get any attachment of the plan

[Quoted text hidden]

Gary Vance <doctorskier@gmail.com>

Sat, Sep 11, 2021 at 8:40 AM

To: Sara Aragon <saragon@bennett.co.us>

What i was also trying to convey is the only reason I have to bring it up to code is because I repaired and replaced more than 20 or 25% of the deck. If it is so dangerous the way it was and is constructed every deck built would have to be replaced. I was asking for a little forgiveness for not knowing i needed a permit for repairing a deck the same way its been for 25 years. Apparently all I have done for this town has not helped me when it comes to this matter. I am aware the

Page 29

decks do not meet the new code but what the engineer has said is that they are safe constructed this way and has taken all liability out of your hands.

On Sat, Sep 11, 2021 at 4:54 AM Sara Aragon <saragon@bennett.co.us> wrote:

[Quoted text hidden]

Sara Aragon <saragon@bennett.co.us>

Mon, Sep 13, 2021 at 11:14 AM

To: Trish Stiles <tstiles@bennett.co.us>

Gary's Reply



Sara Aragon | Community Development Manager
207 Muegge Way | Bennett CO, 80102
(303)644-3249 ext.1012 | saragon@bennett.co.us
townofbennett.colorado.gov

[Quoted text hidden]

Sara Aragon <saragon@bennett.co.us>

Tue, Sep 14, 2021 at 3:47 PM

To: Gary Vance <doctorskier@gmail.com>, Trish Stiles <tstiles@bennett.co.us>

Hello Gary,

I do understand your frustration, however regardless of when something was originally built, it is required that any updates are done in accordance with the current code cycle that has been adopted. The 20% or 25% replacement you are referring to would be to replace boards or maybe a single handrail. This project includes replacing the entire deck, including the structural items.

We will need you to re-submit plans that meet the code minimums. Gary, we do understand your dilemma, however we cannot waive building code. While the Town does appreciate the investments you have contributed to various projects in the past, unfortunately, we cannot make exceptions to the building code because of them.

Please let us know if you have any other questions.

Thank you,



Sara Aragon | Community Development Manager
207 Muegge Way | Bennett CO, 80102
(303)644-3249 ext.1012 | saragon@bennett.co.us
townofbennett.colorado.gov

[Quoted text hidden]

August 23, 2021

Bennett Building Department
Town of Bennett
207 Muegge Way
Bennett, Co 80102

I have been unable to sit down and personally speak with a Building Department representative, so I am writing you. This concerns the decks on my apartment building at 215 Kiowa Ave, in Bennett.

Several joist needed to be replaced. However, I decided to not only replace several joist and then next year replace a few more, but to do the right thing and repair and replace the entire deck

I have always tried to keep my apartments in top shape and have never needed a permit to repair and replace an existing structure to the original design. After properly replacing 3 ½ out of the 4 decks, I was given a stop work order. I met with Tom Pritchard and was told I needed an engineers drawing and must remove the decks, cut out the siding and attach the already built decks to the sheathing. This violates the envelope of the building, which I feel will lead to moisture problems in the future. There was no compromise with Mr. Pritchard.

As a result, I contacted the Adams County Building Department for several hours. I was told:

- 1) The reason an engineer's stamp is needed is to CYA
- 2) They approve all drawings with an engineer's stamp
- 3) An engineer can use the Performance Method as apposed to the Prescriptive Method in designs.

I am applying for a permit which I didn't think I needed to repair the decks.

I just finished an addition on my home, which I did get a Building Permit for, and did use the same structural engineer as I am using for my apartment decks. I did not search out for a structural engineer that would put a stamp on whatever I asked. I feel that I tried to do the proper thing by repairing the entire deck instead of just the minimum and am being severely punished because of it.

I could have replace 25% of the deck every 6 months and there would not have had an issue. It may be a mute point, but the code does not stipulate a time frame for how much can be replaced how often. Is that yearly, monthly, daily or hourly? Just a thought.

Thank you and please feel free to discuss this with me or my engineer.

GARY VANCE - 303-910-5949 OWNER
SHARAM LAME 303-332-7208 ENGINEER



Sara Aragon <saragon@bennett.co.us>

Decks

Sara Aragon <saragon@bennett.co.us>

Tue, Aug 24, 2021 at 3:34 PM

To: doctorskier@gmail.com

Bcc: Savannah Vickery <svickery@bennett.co.us>

Hi Mr. Vance,

I did receive your letter and application regarding the deck at your property. I do apologize that I asked one of our staff to reach out, I was out of the office for a funeral.

I assure you, Tom is following the building code. Replacing entire decks in an occupied apartment building does require engineered drawings. If this were a situation that you were simply replacing a board or two of decking or a broken rail in the railing that would be considered maintenance. However, you were removing the entire deck and replacing the joists and all of the decking and railing, that scope of work does trigger a building permit.

Regardless of when a building is built, if you make updates such as replacing entire decks, it is required for them to be designed and built per the current code, not the code that the building was originally built under.

I am not entirely sure what code Adams County follows or how they approve plans or inspections, we are a separate jurisdiction from them. While they may just simply approve plans or inspections if they are stamped or completed by an engineer, that is not the process we follow.

I do understand your frustration with the whole situation, however our inspectors job is to ensure that projects are built to meet the code minimums. Moving forward, to avoid this in the future, we are happy to answer questions regarding any projects you plan on doing to let you know if you need a building permit so you can get it ahead of the work and ensure that it meets requirements. We will get this submitted for plan review and let you know when your permit/plans have been approved.

I am sorry you feel frustrated, I do understand. Our building inspectors number one priority is life and property safety. Please let me know if you have any questions.

Thank you,



Sara Aragon | Community Development Manager
207 Muegge Way | Bennett CO, 80102
(303)644-3249 ext.1012 | saragon@bennett.co.us
townofbennett.colorado.gov



Sara Aragon <saragon@bennett.co.us>

Decks

Gary Vance <doctorskier@gmail.com>
To: Sara Aragon <saragon@bennett.co.us>

Tue, Aug 24, 2021 at 4:34 PM

i feel this has nothing to do with safety its about the "code" which my engineer and Adams county have said the performance method of engineering can be used as opposed to the prescriptive method . The decks were very unsafe in the shape they were in and i tried to remedy that . I have have now done my do diligence and it sounds as if thats to no avail According to Tom the only thing in Question is the 1/2 inch of siding behind the decks But thank you for responding

[Quoted text hidden]

**NOTICE OF PUBLIC HEARING
BENNETT BUILDING CODE BOARD OF APPEALS**

Notice is hereby given that the Town of Bennett Building Code Board of Appeals will hold a public hearing on Tuesday, November 23, 2021 at 7:00 p.m. Such hearing will either be conducted at the Bennett Town Hall, 207 Muegge Way, Bennett CO, 80102, or electronically in accordance with policies adopted by Resolution of the Board of Trustees. If the hearing will be held as part of an electronic meeting, notice will be posted on the Town's website at townofbennett.colorado.gov at least twenty-four (24) hours before the meeting with instructions regarding how interested persons may join and participate in the electronic hearing.

The purpose of the hearing is to consider an application submitted by Gary Vance appealing a decision by the Bennett Building Official concerning deck construction at the Tymanike apartments located at 215 Kiowa Ave, Bennett, Colorado 80102. The subject matter of the appeal is the method for anchoring/attaching decks to a primary structure.

Any interested person may appear at the hearing and be heard regarding the matters under consideration. Copies of the appeal are on file at, and further information can be obtained from, the Bennett Building Department at (303) 644-3249.



welcome neighbors.

11/10/2021

Tenant
Tymanike Apartments
215 Kiowa Ave
Bennett, CO 80102

Subject: **NOTICE OF PUBLIC HEARING BENNETT BUILDING CODE BOARD OF APPEALS**

Dear Tenant,

Notice is hereby given that the Town of Bennett Building Code Board of Appeals will hold a public hearing on Tuesday, November 23, 2021 at 7:00 p.m. Such hearing will either be conducted at the Bennett Town Hall, 207 Muegge Way, Bennett CO, 80102, or electronically in accordance with policies adopted by Resolution of the Board of Trustees. If the hearing will be held as part of an electronic meeting, notice will be posted on the Town's website at townofbennett.colorado.gov at least twenty-four (24) hours before the meeting with instructions regarding how interested persons may join and participate in the electronic hearing.

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Sincerely,

Sara Aragon

Community Development Manager

Town of Bennett



welcome neighbors.

11/10/2021

Gary Vance
Tymanike Properties, LLLP
2545 Haskell Place
Watkins, CO 80137

Subject: **NOTICE OF PUBLIC HEARING BENNETT BUILDING CODE BOARD OF APPEALS**

Dear Mr. Vance,

Notice is hereby given that the Town of Bennett Building Code Board of Appeals will hold a public hearing on Tuesday, November 23, 2021 at 7:00 p.m. Such hearing will either be conducted at the Bennett Town Hall, 207 Muegge Way, Bennett CO, 80102, or electronically in accordance with policies adopted by Resolution of the Board of Trustees. If the hearing will be held as part of an electronic meeting, notice will be posted on the Town's website at townofbennett.colorado.gov at least twenty-four (24) hours before the meeting with instructions regarding how interested persons may join and participate in the electronic hearing.

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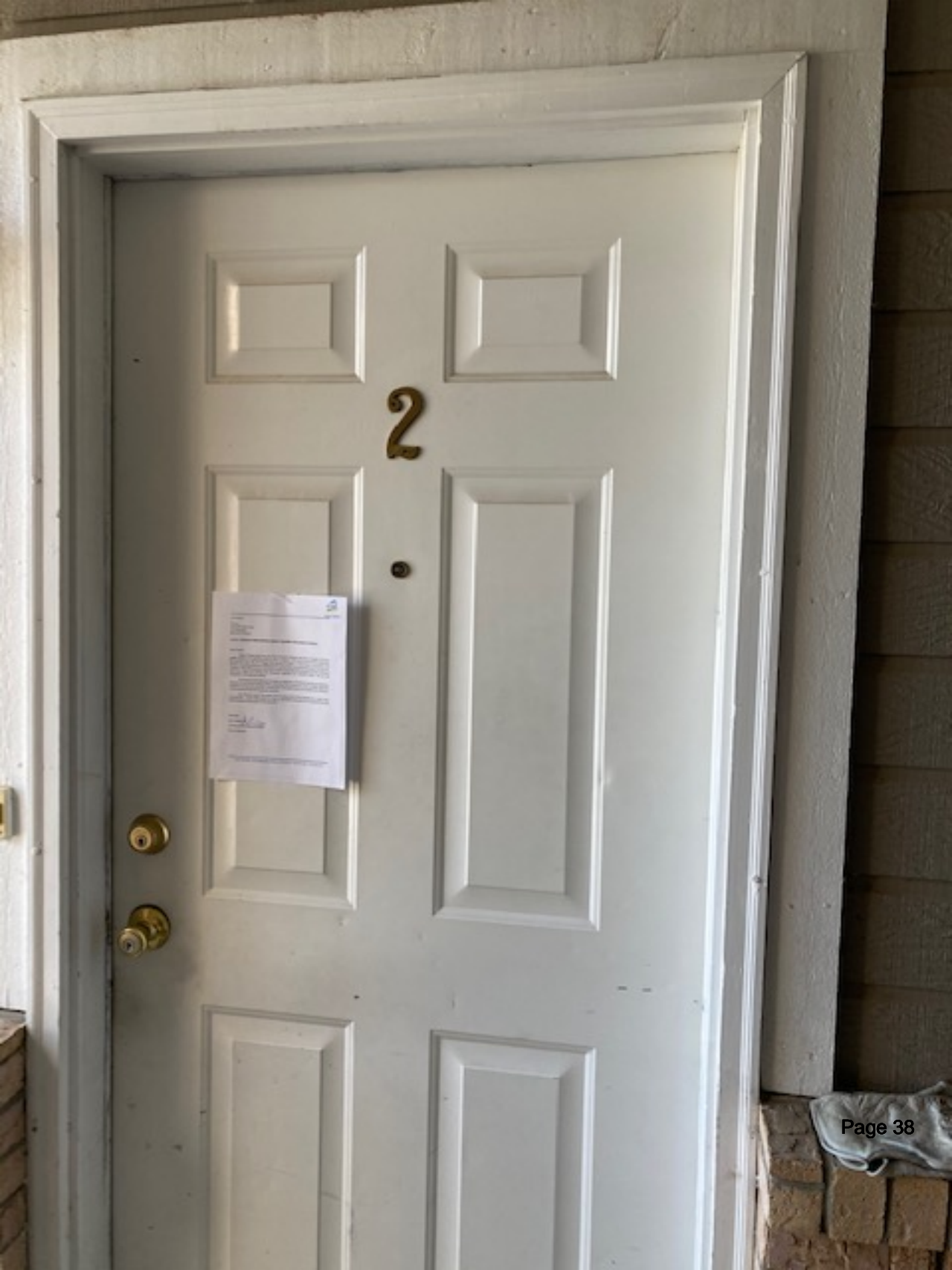
Sincerely,

Sara Aragon

Community Development Manager

Town of Bennett



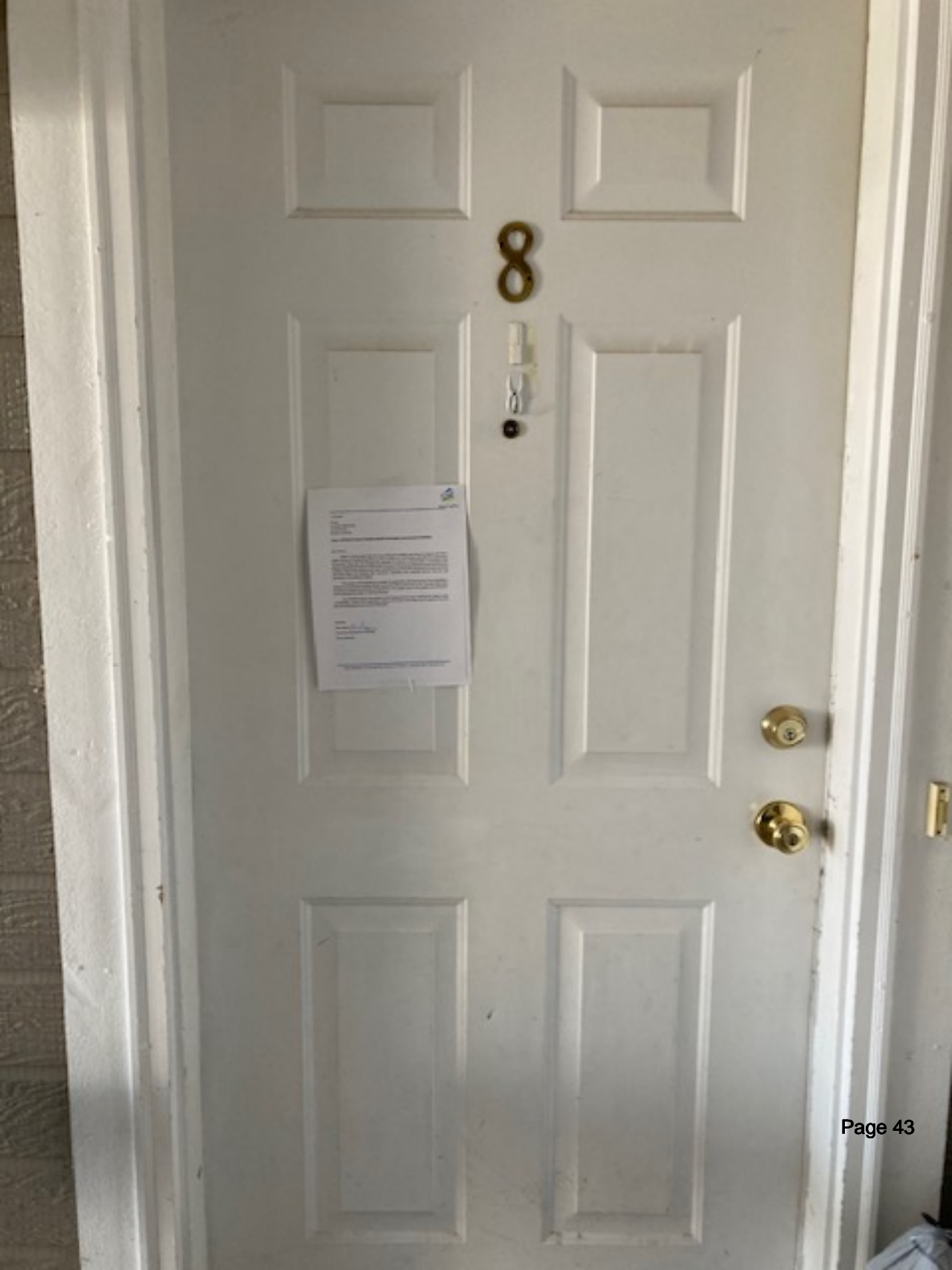








[illegible]





10/10/2020

Subject: Transfer of responsibilities for the management of the health system

Reference: 10/10/2020

LEGAL NOTICE OF PUBLIC HEARING REGARDING THE DRAFTING OF A DECISION

Dear Sirs,

We hereby inform you that the Council of Ministers (CM) of the Republic of Moldova will hold a public hearing on Tuesday, November 10, 2020, at 10:00 a.m. The hearing will take place in the Council Chamber, 201 Bulevardul Ștefan cel Mare nr. 69, Chișinău, or electronically in accordance with the provisions of the Law on the Access to Information. The hearing will be held in the presence of the representatives of the Council of Ministers, the representatives of the Parliament, the representatives of the Government, the representatives of the local authorities, the representatives of the civil society, the representatives of the media and the representatives of the interested parties.

The purpose of the hearing is to consult on the draft decision on the transfer of responsibilities for the management of the health system from the Ministry of Health and Human Services to the Ministry of Health and Human Services (MHS).

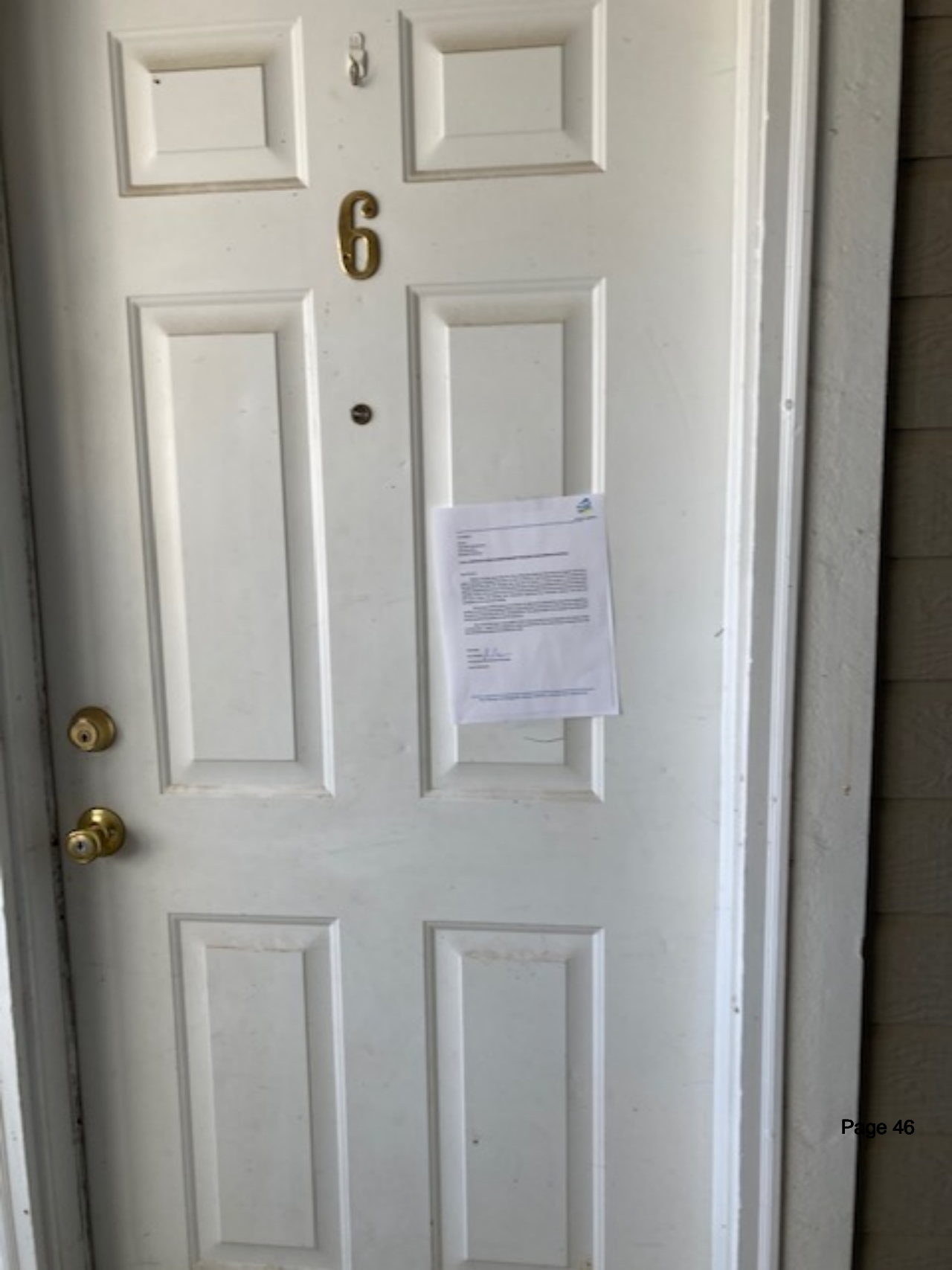
The draft decision also contains the draft of the decision on the transfer of responsibilities for the management of the health system from the Ministry of Health and Human Services to the Ministry of Health and Human Services.

The draft decision is available for public access on the website of the Ministry of Health and Human Services.

Yours faithfully,

 Minister of Health and Human Services

10/10/2020





1604.8.3 Decks.

Where supported by attachment to an *exterior wall*, decks shall be positively anchored to the primary structure and designed for both vertical and lateral loads as applicable. Such attachment shall not be accomplished by the use of toenails or nails subject to withdrawal. Where positive connection to the primary building structure cannot be verified during inspection, decks shall be self-supporting. Connections of decks with cantilevered framing members to exterior walls or other framing members shall be designed for both of the following:

1. The reactions resulting from the dead load and live load specified in Table 1607.1, or the snow load specified in Section 1608, in accordance with Section 1605, acting on all portions of the deck.
2. The reactions resulting from the dead load and live load specified in Table 1607.1, or the snow load specified in Section 1608, in accordance with Section 1605, acting on the cantilevered portion of the deck, and no live load or snow load on the remaining portion of the deck.

1604.9 Wind and seismic detailing.

Lateral force-resisting systems shall meet seismic detailing requirements and limitations prescribed in this code and ASCE 7 Chapters 11, 12, 13, 15, 17 and 18 as applicable, even where *wind load effects* are greater than *seismic load effects*.

Exception: References within ASCE 7 to Chapter 14 shall not apply, except as specifically required herein.

Page 48

1604.10 Loads on storm shelters.

Loads and load combinations on storm shelters shall be determined in accordance with ICC 500.

Sec. 18-1-20. Amendments.

The following sections of the *International Building Code* are hereby amended as follows:

- (a) Section 101.1 (Title) is amended by the addition of the term "Town of Bennett" where indicated.
- (b) Section 101.4.3 (Plumbing) is amended by the deletion of the last sentence.
- (c) Section 105.2 (Work exempt from permit) is amended by deletion of number 2 in its entirety and replacement of number 2 with the following:
 - 2. Fences not over 6 feet (1829 mm) high.
- (d) Section 105.5 (Expiration) is amended to read as follows (words to be deleted are stricken through; words to be added are underlined):

105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated and a fee of ten percent (10%) of the original permit fee or five dollars (\$5.00), whichever is greater shall be collected. Upon expiration of any building permit, the applicant shall not proceed with any work on the site until such time as applicant receives a new permit, for which applicant has submitted a new, complete permit application along with payment of all applicable fees.

- (e) Section 109.1 (Payment of fees) is amended to read as follows (words to be deleted are stricken through; words to be added are underlined):

109.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid. A plan review fee shall be paid at the time a plan is submitted for review. All other fees shall be paid at the time the permit is issued. The plan review fee shall be based on the estimated value of the work. To the extent the building official determines additional plan review fees are due, such additional fees shall be paid before the permit is issued. To the extent the building official determines that excess plan review fees were paid at the time the plan was submitted for review, the excess fees shall be refunded, or at applicant's request, credited to building permit fees due at the time of permit issuance.

- (f) Section 109.4 (Work commencing before permit issuance) is amended to read as follows (words to be deleted are stricken through; words to be added are underlined):

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by the building official that shall be in addition to the required permit fees equal to 100% of the original building permit fee in addition to the required permit fees.

- (g) Section 109.6 (Refunds) is amended by deleting the section in its entirety and replacing the section with the following:

The Town may authorize refunds as set forth in a fee schedule adopted by the Board of Trustees by resolution.

- (h) Section 113.1 (General) is amended by deleting the last two sentences and inserting the following:

The members of the Board of Appeals shall be comprised of the members of the Town Board of Trustees.

- (i) Section 113.3 (Qualifications) is amended by deleting the section in its entirety.

-
- (j) Section 202 (Definitions) is amended by addition of the following definition:

"Sleeping Room" (Bedroom) is any enclosed habitable space within a dwelling unit, which complies with the minimum room dimension requirements of IBC Section 1207 and contains a closet, an area that is useable as a closet, or an area that is readily convertible for use as a closet. Living rooms, family rooms and other similar habitable areas that are so situated and designed so as to clearly indicate these intended uses, shall not be interpreted as sleeping rooms.

- (k) Section 1612.3 (Establishment of flood hazard areas) is amended by the insertion of "Town of Bennett" where indicated in [Insert Name of Jurisdiction] and the date of the latest flood insurance study for the Town, were indicated in [Insert Date of Issuance].
- (l) Appendix J (Grading) is amended by the addition of new sections "J112 Grading Fees" and "J113 Performance Guarantees" which shall read as follows:

Section J112 Grading Fees.

J112.1 General. Fees shall be assessed in accordance with the provisions of this section and in the amount set forth in a fee schedule adopted by the Board of Trustees by resolution.

J112.2 Plan review fees. When a plan or other data are required to be submitted, a plan review fee shall be paid at the time of submitting plans and specifications for review. Said plan review fee shall be as set forth in a fee schedule adopted by the Board of Trustees by resolution. Separate plan review fees shall apply to retaining walls or major drainage structures as required elsewhere in this code. For excavation and fill on the same site, the fee shall be based on the volume of excavation or fill, whichever is greater.

J112.3 Grading permit fees. A fee for each grading permit shall be paid to the building official as set forth in a fee schedule adopted by the Board of Trustees by resolution. Separate permits and fees shall apply to retaining walls or major drainage structures as required elsewhere in this code. There shall be no separate charge for standard terrace drains and similar facilities.

Section J113 Performance Guarantees.

The building official may require a performance guarantee in the form of a bond, letter of credit or cash escrow in such form and amounts as may be deemed necessary to ensure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.

(Ord. No. 717-20 , § 1, 10-27-2020)

Sec. 18-1-20. Amendments.

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(Ord. No. 717-20 , § 1, 10-27-2020)

TO: Mayor and Town of Bennett Board of Trustees
FROM: Sara Aragon, Community Development Manager
Tom Pitchford, Chief Building Official
DATE: October 12, 2021
SUBJECT: Building Code Appeal - 215 Kiowa Ave, Tymanike Apartment Decks

Background

Town Board's Role in this Appeal

Per Sec. 18-1-10 of the Bennett Municipal Code, the Town has adopted by reference the 2018 International Building Code (IBC) as the Town of Bennett Building Code. This includes Section 113.1 of the IBC, which requires the Town to have a Building Code Board of Appeals to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of the IBC.

In Bennett, the Board of Trustees serves as the Building Code Board of Appeals. See Section 18-1-20(i) of the Bennett Municipal Code. When an application to the Board of Appeals is made, it shall be based on a claim that:

1. the true intent of the IBC or the rules legally adopted thereunder have been incorrectly interpreted;
2. the provisions of the IBC do not fully apply; or
3. an equally good or better form of construction is proposed.

The Board does not have authority to waive requirements of the IBC. See IBC 113.2.

Discussion of the Appeal

In the Town of Bennett, building permits are required for many projects. When a permit is not obtained and a contractor and/or property owner are found to be commencing with work, a "stop work order" will be issued. A stop work order requires that work cease immediately after securing the project site in a way that does not jeopardize life or property safety.

The building code appeal being brought to the Mayor and Board of Trustees is in regard to 215 Kiowa Ave, which is a two-story apartment building owned by Gary Vance. There was a deck replacement project that commenced without building permits and a stop work order was issued, requiring the contractor and/or owner to obtain building permits for the project.

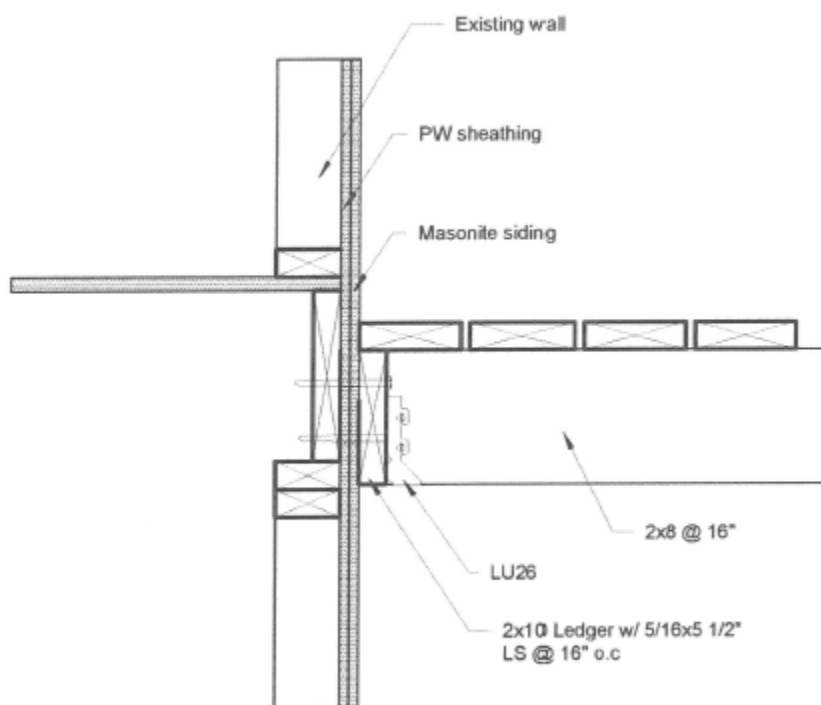
As part of the building permit process, Mr. Vance submitted construction plans for the decks. The plans showed how the decks would be anchored/connected to the apartment building.

For this case, the section of the IBC in question is 1604.8.3 Decks. Below is an excerpt from that section:

Where supported by attachment to an exterior wall, decks shall be positively anchored to the primary structure and designed for both vertical and lateral loads as applicable. Such attachment shall not be accomplished by the use of toenails or nails subject to withdrawal. Where positive connection to the primary building structure cannot be verified during inspection, decks shall be self-supporting. Connections of decks with cantilevered framing members to exterior walls or other framing members shall be designed for both of the following:

- 1. The reactions resulting from the dead load and live load specified in Table 1607.1, or the snow load specified in Section 1608, in accordance with Section 1605, acting on all portions of the deck.*
- 2. The reactions resulting from the dead load and live load specified in Table 1607.1, or the snow load specified in Section 1608, in accordance with Section 1605, action on the cantilevered portion of the deck, and no live load or snow load on the remaining portion of the deck.*

The plans submitted for this project does not meet the IBC requirements referenced above. It does not have positive attachment to the primary structure. Between the deck and the primary structure there is Masonite Siding as well as PW Sheathing (see the plan below). Though this design was stamped by an engineer, it does not meet the requirements of the IBC.



Based on this, the building official informed Mr. Vance that his plans were not approved and that he must submit new plans for the decks that conform to the requirements of IBC Section 1604.8.3. Mr. Vance is appealing the building official's decision. The basis for Mr. Vance's appeal is set forth in his September 24, 2021 email to Ms. Stiles (attached), which states:

The code you refer in the IBC only addresses positive attachment to the building. I have positive attachment and the decks are built better than before and the building dept

have not provided me with the code I have violated. I feel that they have misinterpreted the code and I am requesting an appeal.

Timeline

The timeline of events leading up to the appeal application is below. Supporting documentation is attached to this report.

Communication	Date	Outcome
Stop Work Order Issued	8/13/2021	Bob Chappel (Town Building Inspector) posted a stop work order at 215 Kiowa Ave (Tymanike Apartment Building) for work taking place to replace decks without a permit. The contractor that was on site was the building owner's son. Bob talked with Mr. Vance on his son's (also Mr. Vance) phone and instructed them to secure the door going out to the balcony, shore up the corner and to cover the unfinished deck before they left the site.
Building Official Meeting with Owner	8/17/2021 or 8/18/2021	The Building Official met with Mr. Vance in the lobby of Town Hall. Mr. Pitchford reviewed the options to get the stop work order resolved as well as what would be possible solutions for the decks that had already been replaced without approval or permits.
Owner Email Requesting Deck Information	8/18/2021	Mr. Vance contacted me via email to discuss decks at the apartment building, I was out of the office and forwarded it to Savannah Vickery (our permit tech) to have her answer his questions.
Contractor License Applied For	8/19/2021	Nick Bradley (Owner of Colorado General Contracting) submitted a Town contractor license application to me and I forwarded it on to our Building Department main email address. This license still has not been issued, because we are waiting on proof of worker's compensation insurance (or waiver for it) and payment.
Permit Application and Plans submitted to the Building Department	8/23/2021	The permit was put in "plan review" status. At the time, Mr. Pitchford was on vacation but as a courtesy to Mr. Vance, I emailed Mr. Pitchford the plans and we discussed them over the phone.
Letter to Community Development Manager from Owner	8/23/2021	A letter was dropped off at Town Hall by Mr. Vance. I responded via email to Mr. Vance on August 24, 2021. It did take me a day to get back to him as I was gathering all of the information associated with the situation.
Plan Review Update	8/30/2021	Around August 30, I notified Mr. Vance by phone that the plans would not be approved with the drawing submitted because it did not meet the code minimum (either positive attachment or using supports). He was also emailed the same information from the Building Department email address on the same day.

Owner Request for Meeting with Town Administrator	9/1/2021	I was notified by the Town Administrator that Mr. Vance wanted to meet to discuss the result of the plan review
Meeting with Mr. Vance	9/8/2021	The Town Administrator and Community Development Manager met with Mr. Vance to hear his concerns and see if we could find a mutual agreement regarding this matter.
Research on claims of misinterpretation of code and engineer stamps related to plan approval/review	9/8/2021	<p>Much of Mr. Vance's concern in our meeting appeared to be related to our approval process in regard to having an engineer stamped drawing. It was his opinion that if it has an engineer stamp, it should essentially be approved and that our Building Official was being unreasonable by not making an exception in his case.</p> <p>I did reach out to both our Town Engineer and Charles Abbot and Associates (the Town's back up for building services) and was able to confirm with them that regardless of an engineer's stamp, the code minimums must still be adhered to.</p>
Follow up with Mr. Vance	9/11/2021	I emailed Mr. Vance on September 11 to update him with the outcome of our research and consultation with the individuals listed in the previous section.
Email Communication	9/10/2021 to 9/20/2021	Throughout these dates, there were multiple email communications between Town Staff and Mr. Vance (or a representative of his team) regarding the code in question and the appeals process. Those emails have been included as an attachment to this report.
Notice of Hearing	9/24/2021	The official request for an appeal was received.
Notice to Newspaper	9/28/2021	The public hearing notice was submitted to the Town Clerk for a hearing on October 12, 2021.
Notice to Tenants	9/29/2021	A notice to each tenant in the apartment building was delivered to each door.
Notice to Appeal Applicant	9/30/2021	The public hearing notice was sent via Certified Mail to the address on file for Mr. Vance.

Staff Findings

Staff finds that the plans submitted by the applicant do not meet the requirements of IBC Section 1604.8.3. There is no positive attachment for the decks to the primary structure nor are they self-supporting. Staff reached out to Charles Abbot and Associates as well as the Town Engineer and they confirmed that the Building Official's interpretation is just and follows the intent of the IBC. Furthermore, after extensive code research and discussion with both parties previously mentioned, it was determined that an engineer stamp does not automatically qualify a project for approval. The requirements of the IBC must still be met.

Staff Recommendations

Staff recommends that the Town Board of Trustees does not grant this appeal and include the following conditions moving forward:

1. The owner/applicant submit new permits and plans that meet the code requirements for this project within 14 business days.
2. The owner shall complete the approved scope of work no longer than 30 days after obtaining a building permit.
3. If the owner/applicant does not comply, they shall be cited for “work without a permit.”

Attachments

1. Appeal Letter
2. Building Permit/Plans Submitted
3. Plan Review Comments
4. Email conversations with the owner/applicant
5. Mr. Vance Letter to Community Development Manager and Response
6. Notices to Newspaper, Owner and Tenants
7. 1604.8.3 Decks (code section in question from the IBC)
8. Section 113 Board of Appeals (from the IBC)
9. Sec. 18.1.20 (h) and (i) of the Bennett Municipal Code regarding the Board of Appeals

TOWN OF BENNETT COMMERCIAL PLAN REVIEW COMMENTS

Project Description: **Remove and replace Decks**

Project Address: **215 Kiowa Ave**

Application BP2020-391

Permit App. Date: 08-24-2021

Applicant Contact: Colorado General Contracting

Email: Colorado.gc.1@gmail.com

Phone: 720-365-1344

Plan's Examiner: **Thomas Pitchford**

Phone: **(303) 644-3249 ext 1025**

Examiner's Email: tpitchford@bennett.co.us

☐

1st Review:

☐

X

2nd Review:

Italic comments

☐

3rd Review:

Bold Comments By Appt.

The project plans were reviewed for compliance with the following codes and standards:

2018 IBC, 2018 IRC

The code section references are from the 2018 IBC, unless otherwise stated.

- 1) ***Connection of Deck ledger to primary structure must meet the requirements of Sec. 1604.8.3 (Decks) Direct Positive connection to the primary structure is required.***
- 2) ***Information received shows ledger board at deck locations, Applicant will need to open siding at deck ledger locations to provide a connection directly to the ledger board.***
- 3) ***Applicant provided Engineer stamped drawing at appeals hearing showing direct connection to band board with solid wood spacer behind deck ledger. This would be an approved method if applicant would like to submit as a proposed solution for deck ledger to building connection.***

Resubmittal will need to be new complete set of plans and required documents as requested. Resubmittal is required to contain a detailed narrative as to all changes and their locations including page, detail #, etc. As applicable.

Thank you.



Project Description:	8-unit apartment building, remove and replace existing deck		
Project Address:	215 Kiowa Ave.		
Permit Application Date:	8/24/21	Permit Application #	BP2020-391
Applicant:	Colorado General Contracting	Phone:	(720) 365-1344
Applicant email:	colorado.gc1@gmail.com		
Plan Checker Coordinator:	Kirk Money	Phone:	(720) 340-0755
Plan Checker Coordinator email:	kirkmoney@caa.inc		

PLAN REVIEW COMMENTS

The project plans were reviewed for compliance with the following codes and standards: 2018 IBC, 2018 IRC, 2018 IMC, 2018 IPC, 2018 IFGC, 2018 IECC, 2020 NEC, ANSI ICC A117.1 2009 and the Town of Bennett Amendments.

TO EXPEDITE PROJECT APPROVAL: Please provide a written response indicating how and where each comment was resolved on the plans. Resubmit all previously reviewed plans, updated plans and supporting documents with each subsequent review. For clarification of any plan review comment, please call or email the plan checker listed.

Plan Checker: Kirk Money, ph: (720) 340-0755, e: kirkmoney@caa.inc

Plan Review Comments: Building≈.

Building Comments:

- 1) Current submittal is sheet S 1.0. Construction documents shall be prepared by a design professional and or a Colorado State Licensed Structural Engineer. The construction documents shall clearly identify the location and the extent of the work being performed. The construction documents shall be dimensioned and clearly demonstrate that the proposed work conforms to the provisions of the codes per code section 107 of the IBC. The submittal shall include the deck layout, the structural framing plan and the handrail/ guard rail plan.
Applicants Response:
City's Comment:
- 2) The structural framing plans needs to be completed by a Colorado State License Engineer. The structural plans need to demonstrate compliance with code section 1603, 1604, 1606, 1607 & 2301.1.
Applicants Response:
City's Comment:
- 3) Per sheet S1.0 the ledger is referenced as a 2x10 but appears to be the same dimensions as the 2x8 deck joist. Please confirm the deck ledger size and how it will be anchored to the building. Ledger connection to the exterior wall shall demonstrate compliance with code section 1604.8.3.
Applicants Response:
City's Comment:
- 4) Deck post/column connection to footing and to beam shall be designed to resist lateral displacement and uplift per 1604.8.1 & 2304.10.7.

CHARLES ABBOTT ASSOCIATES, INC.

27401 LOS ALTOS • SUITE 220 • MISSION VIEJO, CA 92691
TOLL FREE: (866) 530-4980 • PHONE: (949) 367-2850 • FAX: (949) 367-2852
WWW.CAAPROFESSIONALS.COM



Applicants Response:

City's Comment:

- 5) Joist framing shall comply with code section 2304.10 & 2308.4. Joist need to be connected to ledger and to the beam to prevent rotation, resist lateral loads, and uplift.

Applicants Response:

City's Comment:

- 6) Guardrail shall demonstrate compliance with code section 1015 and be structurally designed to be compliant with 1607.8.

Applicants Response:

City's Comment:

Additional comments may be generated once the City receives revised submittals and responses.

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WWW.CAAPROFESSIONALS.COM



Sara Aragon <saragon@bennett.co.us>

Re: Building Permit

Trish Stiles, Town Administrator <tstiles@bennett.co.us>

Mon, Nov 1, 2021 at 11:16 AM

To: Gary Vance <doctorskier@gmail.com>

Bcc: saragon@bennett.co.us

Gary,

It's clear that you still disagree with the building official's determination after the additional information was sent by you. I think it's best for all involved that we have an outside third party building official review your submission. We'll forward your latest information to them and ask that they reach out to you.

Trish

----- Forwarded message -----

From: **Gary Vance** <doctorskier@gmail.com>

Date: Mon, Nov 1, 2021 at 10:41 AM

Subject: Re: Building Permit

To: Trish Stiles, Town Administrator <tstiles@bennett.co.us>

the review was to let the review board know if there was a rim joist because that was what was in question. It was not their intent to give you the authority to overrule them. I believe I showed the siding can be included in the sheathing, I provided the plans showing a rim joist and this should have gone back to the appeals board. The building dept misinterpreted the code and won't admit they were wrong. Seriously the town is spending this much time and energy on a 5x10 deck? Really? This was stated as an informal meeting and the last e-mail I got from Sarah states "after the trial" the building dept turned me down, I didn't apply for a review so how can it be turned down?

On Mon, Nov 1, 2021 at 10:04 AM Trish Stiles, Town Administrator <tstiles@bennett.co.us> wrote:

Gary,

I wanted to reach out to you and see how you would like to proceed. I believe that you had received the latest plan review last week. We are awaiting your response and resubmittal.

With that in mind, I want to also let you know the Town is going to use our other building inspection company Charles Abbott and Associates for you moving forward. You may still respond to Sara or Savannah and we will forward your information to them and they will work with you to finish this process. This will include all plan reviews and inspections.

Please let me know if you have any questions or concerns. I'll await your response.

Trish

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Trish Stiles, CM | Town Administrator
207 Muegge Way | Bennett CO, 80102
(303)644-3249 ext. 1009 | tstiles@bennett.co.us
townofbennett.colorado.gov

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Trish Stiles, CM | Town Administrator
207 Muegge Way | Bennett CO, 80102
(303)644-3249 ext. 1009 | tstiles@bennett.co.us
townofbennett.colorado.gov



Sara Aragon <saragon@bennett.co.us>

Fwd: Contact at Adams County

1 message

Trish Stiles, Town Administrator <tstiles@bennett.co.us>
To: saragon@bennett.co.us

Tue, Nov 16, 2021 at 1:19 PM

----- Forwarded message -----

From: **Gary Vance** <doctorskier@gmail.com>
Date: Wed, Nov 10, 2021 at 9:01 AM
Subject: Re: Contact at Adams County
To: Trish Stiles, Town Administrator <tstiles@bennett.co.us>

most people wont speak up because its their livelihood but unfortunately all I hear is bad Even my insurance companies said I need a letter from the bldg dept stating that I had to have ice and water shield on my roofs for the repair of the hail damage because it is not needed in this climate but Tom makes them do it anyway I can go on and on but I will spare you

On Wed, Nov 10, 2021 at 8:34 AM Gary Vance <doctorskier@gmail.com> wrote:

i will ask them but i'm not throwing them under the bus. i have not lied to you they told me an engineers plans are always approved they encouraged me to fight this because this is wrong and told me they hear many complaints about the Bennett building dept

On Wed, Nov 10, 2021 at 8:07 AM Trish Stiles, Town Administrator <tstiles@bennett.co.us> wrote:

So I can confirm what they have discussed with you.

On Wed, Nov 10, 2021 at 7:12 AM Gary Vance <doctorskier@gmail.com> wrote:

may i ask why

On Tue, Nov 9, 2021 at 11:19 PM Trish Stiles, Town Administrator <tstiles@bennett.co.us> wrote:

Gary,

Can I please have your contact at Adams County?

Thank you.

Trish

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Email sent from a small keyboard. Please excuse any grammatical errors.

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Email sent from a small keyboard. Please excuse any grammatical errors.

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Trish Stiles, CM | Town Administrator
207 Muegge Way | Bennett CO, 80102
(303)644-3249 ext. 1009 | tstiles@bennett.co.us
townofbennett.colorado.gov



Sara Aragon <saragon@bennett.co.us>

Fwd: Contact at Adams County

Trish Stiles, Town Administrator <tstiles@bennett.co.us>
To: Sara Aragon <saragon@bennett.co.us>

Sun, Nov 21, 2021 at 3:15 PM

----- Forwarded message -----

From: **Alisha Reis** <AReis@adcogov.org>
Date: Sun, Nov 21, 2021 at 10:56 AM
Subject: RE: Contact at Adams County
To: Trish Stiles <tstiles@bennett.co.us>

Hi, Trish,

I talked with my team and we weren't able to determine who your folks may have spoken with. But with that said, our position remains that it is our practice not to comment on any rulings by other building officials. Good luck with this going forward, and please reach out if you hear anything to the contrary.

Take care,

Alisha

From: Trish Stiles, Town Administrator <tstiles@bennett.co.us>
Sent: Wednesday, November 10, 2021 10:09 AM
To: Alisha Reis <AReis@adcogov.org>
Subject: Fwd: Contact at Adams County

Please be cautious: This email was sent from outside Adams County

----- Forwarded message -----

From: **Gary Vance** <doctorskier@gmail.com>
Date: Wed, Nov 10, 2021 at 9:01 AM
Subject: Re: Contact at Adams County
To: Trish Stiles, Town Administrator <tstiles@bennett.co.us>

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Page 64

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Trish

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Email sent from a small keyboard. Please excuse any grammatical errors.

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Email sent from a small keyboard. Please excuse any grammatical errors.

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[Quoted text hidden]



Building Code Appeal 215 Kiowa Avenue, Tymanike Apartments

Town of Bennett Building Code Board of Appeals

November 23, 2021

Sara Aragon, Community Development Manager

Tom Pitchford, Certified Building Official

Background

- Motion from hearing on October 12, 2021

TRUSTEE VITTUM MOVED, TRUSTEE BARDEN SECONDED no action be taken this evening for the purpose of allowing the Building Department to inspect the original architectural drawings of this property and also to allow the Building Department to after removing siding to inspect material that the lag bolts will be driven into. The voting was as follows:

YES: Smith, Sus, Vittum, Barden, Harrell, Oakley

NO: None

RECUSED: Pindell

Mayor Pro Tem Darvin Harrell declared the motion passed unanimously.

Background

- After reflection on the last hearing on this matter, I realized I could have been more detailed in my previous presentation. For this appeal, I've provided information regarding the timeline for this event as well as more background on the department and department processes.
- The Town of Bennett is growing. As of November 17, the Building Department has issued 645 permits. That is an increase of approximately 38% from the 399 building permits issued in 2020 and a 71% increase from the 184 building permits issued in 2019.

Background

Building Department

- Reviews, inspects all building permits, and issues and coordinates all other permits (e.g., development, public works, etc.)
- Department Staff work closely with Public Works, the Town Engineer and Planning Departments on many different items, including coordinating and tracking all development happening within the Town
- Administrative staff, Sara Aragon and Savannah Vickery, are also involved with every planning case that comes to the Town by providing information and support, sending out referrals to referral agencies and tracking all necessary timelines. Staff is responsible for Variances, Temporary Use Permits and Conditional Use Permits

Department Background

Sara Aragon

- I have been with the Town since 2017
- ICC Permit Technician Certification
- ICC Code Specialist Certification
- On Board of Directors for CAPT (Colorado Association of Permit Technicians).
- Office Manager for a plumbing company for several years
 - I managed and administered all of the administrative aspects as well as 10-15 plumbers and laborers
 - Worked with many jurisdiction in the metro area on permitting, plan review and inspections
- HR Manager for a different plumbing company than one mentioned above
- Customer Service Manager at Walmart

Tom Pitchford

- ICC Certified Building Official (20 Years)
- ICC Commercial Building Inspector (21 Years)
- ICC Building Inspector (21 Years)
- Plans Examiner (20 Years)
- Currently State of Colorado ICC Chair of the Disaster Mitigation Committee
- Currently Serves on Colorado ICC Education Committee, Program Committee and Legislation Committee
- Past President of the Colorado Chapter of ICC
- Has served on 10 different National ICC Committees including 7 different ICC code committees dealing with 3 separate code cycles.

Department Background

Bob Chappel

- ICC Commercial Electrical Inspector
- ICC Residential Electrical Inspector
- ICC Electrical Inspector
- ICC Residential Building Inspector
- Bob has been an inspector for 6 years collectively, 5 electrical and 1 as a combination inspector
- Electrical Contractor for 1 years
- Entire career in construction field
- State of Colorado Master Electrician

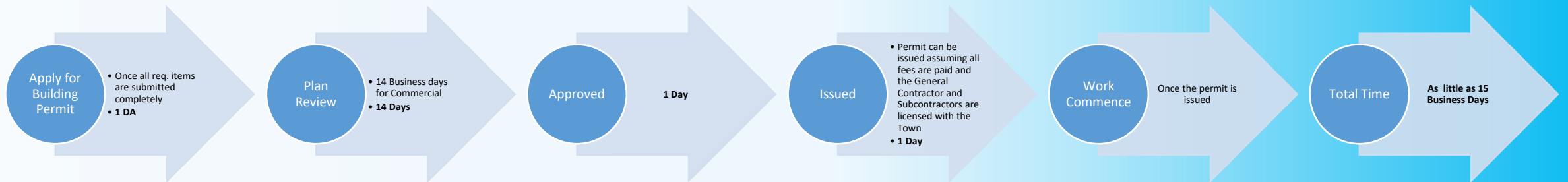
Savannah Vickery

- Bachelors in Public Health Science and Anthropology from Santa Clara University
 - Graduate cum laude, member of Sigma Chi research facility and Lambda Alpha Honor Society; certified Professional Scrum Master – I
 - 7 Years in Customer Service
 - Experience in housing, education, finance and IT sectors

Timeline

<https://app.smartsheet.com/b/publish?EQBCT=4884b64eb5614503bd34109ec789629e>

Timeline for Commercial Permits



Timeline for 215 Kiowa Ave



International Building Code Adoption

Per Sec. 18-1-10 of the Bennett Municipal Code, the Town has adopted by reference the 2018 International Building Code (IBC) as Town of Bennett Building Code.

Sec. 18-1-10. Adoption.

The International Building Code, 2018 Edition as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478, Chapters 1 through 35 inclusive, and Appendix Chapter J, are hereby adopted by reference as the Town of Bennett Building Code as if fully set out in this Article with the additions, deletions, insertions and changes as follows. The purpose and subject matter of the International Building Code include comprehensive provisions regulating construction aspects of building and providing uniform building standards for the purpose of protecting the public health, safety and general welfare. In all Sections of this Code where a reference is made to the International Building Code or IBC, said reference shall be to the 2018 Edition of said Code. The Clerk shall maintain at least one copy of the International Building Code as required by law in the Town Hall, which may be inspected by any interested person during regular business hours.

IBC Section 113- Board of Appeals

Section 113.1 of IBC requires the Town have a Building Code Board of Appeals to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of the IBC.

IBC Section 113- Board of Appeals

When an application to the Board of Appeals is made, it shall be based on a claim that:

- the true intent of the IBC or the rules legally adopted thereunder have been incorrectly interpreted;
- the provisions of the IBC do not fully apply; or
- an equally good or better form of construction is proposed.

The Board does not have authority to waive requirements of the IBC.

Building Code Interpretation Being Appealed

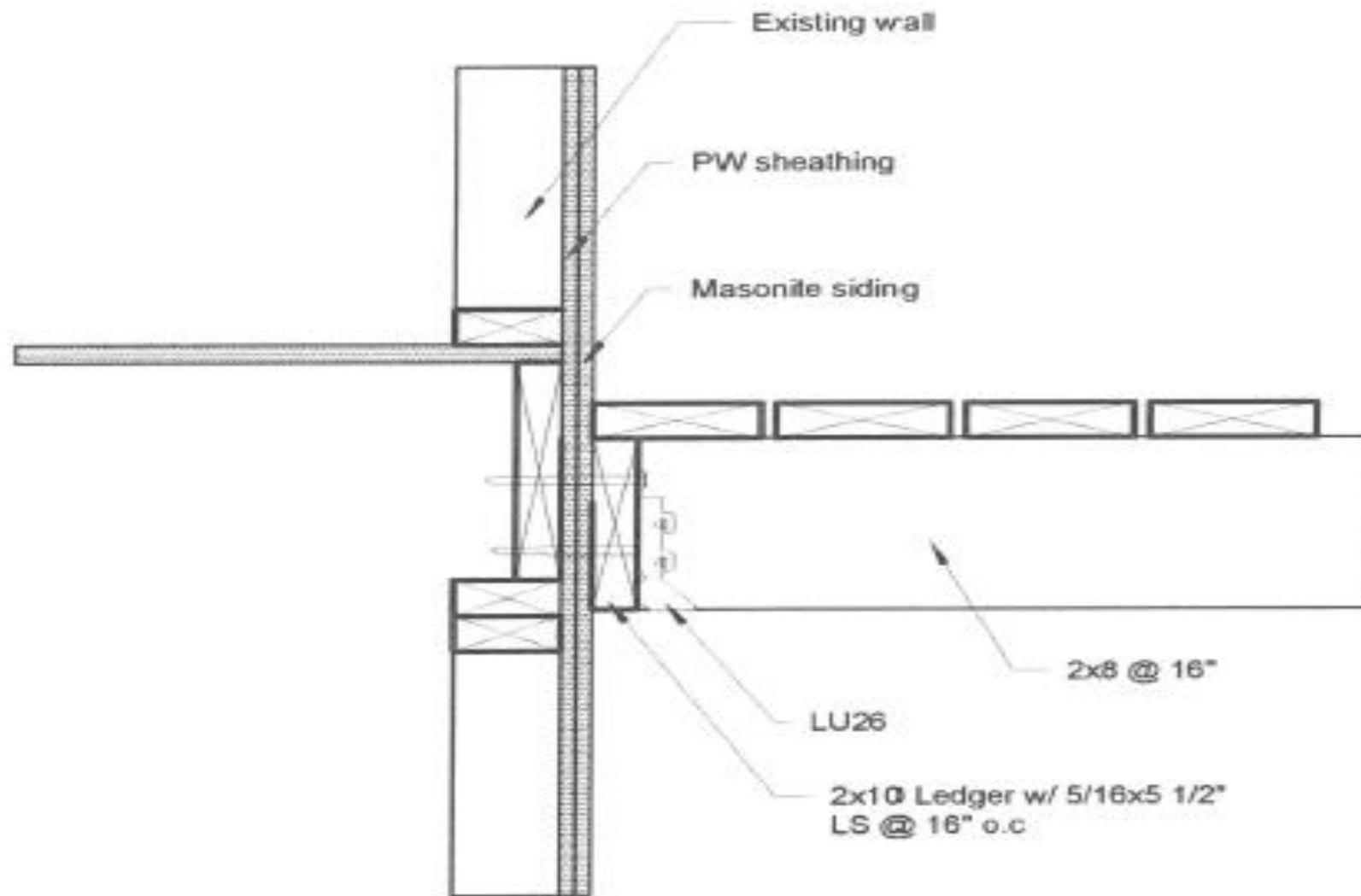
1604.8.3 Decks- Below is an excerpt from that section:

Where supported by attachment to an exterior wall, decks shall be positively anchored to the primary structure and designed for both vertical and lateral loads as applicable. Such attachment shall not be accomplished by the use of toenails or nails subject to withdrawal. Where positive connection to the primary building structure cannot be verified during inspection, decks shall be self-supporting. Connections of decks with cantilevered framing members to exterior walls or other framing members shall be designed for both of the following:

- 1. The reactions resulting from the dead load and live load specified in Table 1607.1, or the snow load specified in Section 1608, in accordance with Section 1605, acting on all portions of the deck.*
- 2. The reactions resulting from the dead load and live load specified in Table 1607.1, or the snow load specified in Section 1608, in accordance with Section 1605, action on the cantilevered portion of the deck, and no live load or snow load on the remaining portion of the deck.*

Plans Submitted for the Project

- The plan submitted for this project does not meet the code requirements referenced above.
- It does not have positive attachment to the primary structure.
 - Between the deck and the primary structure is Masonite Siding as well as PW Sheathing.
- This plan is stamped by an engineer, however, it does not meet the minimum requirements of the code.



Plan Review Comments

- The project plans were reviewed for compliance with the following codes and standards: 2018 IBC, 2018 IRC
- Code requirements for decks :
 - Connection of deck ledger to primary structure must meet the requirements of Sec. 1604.8.3
 - Direct Positive connection to the primary structure is required.

Staff Findings

- Staff finds that the plans submitted by the applicant do not meet the code requirements of 1604.8.3.
 - There is no positive attachment for the decks to the primary structure.
 - They are not self-supporting.
- Staff reached out to Charles Abbot and Associates and the Town Engineer to confirm that the interpretation is just and follows the intent of the code.
- An engineer stamp does not automatically qualify a project for approval. The requirements of the code must still be met.

Staff Recommendations

Staff recommends that the Town Board of Trustees does not grant this appeal and includes the following conditions moving forward:

1. The owner/applicant submits new permits and plans that meet the code requirements for this project within 14 business days.
2. The owner shall complete the approved scope of work no longer than 30 days after obtaining a building permit.
3. If the owner/applicant does not comply, they shall be cited for “work without a permit.”

Questions?

STAFF REPORT



welcome neighbors.

TO: Mayor and Town of Bennett Board of Trustees
FROM: Rachel Summers, Deputy Town Administrator
DATE: November 23, 2021
SUBJECT: Adams County Shared Services Lease Agreement – Fourth Amendment

Background

Since 2012, the Town of Bennett has partnered with Adams County to provide motor vehicle services to its residents. This began with a shared space within Old Town Hall and moved to current occupancy in the Bennett Shared Service Center. The Town constructed this office building as a primary space for Adams County Motor Vehicle and possible future uses, with interests remaining strong for additional human services from the County or other satellite services. The Town values this relationship with the County and looks forward to continuing a prudent partnership with them.

Current IGA - Third Amendment

Occupied Space: 5,000 sq. ft.
Term Expiration: December 31, 2021
Rent Schedule: \$1,500 month

Repairs: The County provides maintenance services and makes all necessary repairs to the **interior** and building systems for the term of the IGA. The Town is responsible for ensuring the availability of any utilities, water or sewer services for the premises. In addition, Bennett shall provide snow removal for the entire premises, including the parking lot and sidewalks, and maintenance and improvements for the exterior of the building and grounds.

IGA Fourth Amendment Proposals

Due to the expiration of the Third Amendment on December 31, 2021, Town Staff believes it would benefit both parties to amend the IGA and extend the expiration for an additional year to December 31, 2022. This additional year lease will allow the County and Town to negotiate the possibility of future services and or purchase of the facility. Additionally, due to significant cost increases for the Town facility impacts, Staff proposes a rent increase to \$3,150 per month (\$37,800 annually).

Furthermore, Staff would like to formally request a one-time contribution of \$15,000 for exterior maintenance costs associated with the grounds upkeep and façade of the build.

Overall, the Town values the partnership it has built with the County and looks forward to continuing a long-term relationship.

Staff Recommendation

Staff recommends the approval of the Fourth Amendment to Intergovernmental Agreement between Adams County and the Town of Bennett for an Office Lease at the Bennett Shared County Service Center.

Attachments

1. Fourth Amendment to Intergovernmental Agreement
2. Resolution 893-21

Fourth Amendment to Intergovernmental Agreement between Adams County and the Town of Bennett for an Office Lease at the Bennett Shared County Service Center

This FOURTH AMENDMENT TO INTERGOVERNMENTAL AGREEMENT ("Fourth Amendment") is entered into this ___ day of _____, 2021, by and between the Board of County Commissioners of Adams County, State of Colorado, located at 4430 S. Adams Parkway, Brighton, Colorado 80601, hereinafter referred to as "County," and the Town of Bennett, located at 207 Muegge Way, Bennett, CO 80102, hereinafter referred to as "Bennett."

WHEREAS, on September 20, 2016, the County and Bennett entered into that certain Intergovernmental Agreement for an Office Lease at Bennett Shared County Service Center ("IGA"); and,

WHEREAS, on May 30, 2017, the County and Bennett entered into that certain First Amendment to IGA for an Office Lease at Bennett Shared County Service Center ("First Amendment"); and,

WHEREAS, on September 11, 2018, the County and Bennett entered into that certain Second Amendment to the IGA for an Office Lease at Bennett Shared County Service Center ("Second Amendment"); and

WHEREAS, on December 8, 2020, the County and Bennett entered into that certain Third Amendment to the IGA for an Office Lease at Bennett Shared County Service Center ("Third Amendment"); and

WHEREAS, by means of this Fourth Amendment, County and Bennett wish to extend the term of the IGA and make other changes noted below.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, County and Bennett hereby agree as:

1. The term of the IGA is hereby extended through December 31, 2022.
2. County shall have the right to renew the lease for one (1) additional year, extending the lease through December 31, 2023. In order to expedite this Renewal Option, County shall submit notice in writing to Bennett 30 days prior to December 31, 2022.
3. Rent is changed to \$3,150 per month (\$37,800 annually). The first monthly payment shall be due and payable on January 1, 2022.
4. An annual maintenance payment of \$15,000 shall be paid by the County to Bennett for the maintenance of the exterior building façade and landscaping. This maintenance payment shall be due and payable on January 1, 2022.
5. Except as amended by this Fourth Amendment, the First, the Second Amendment, and Third and IGA shall remain in full force and effect in accordance with their terms.
6. Capitalized terms used in this Fourth Amendment and any preceding amendment shall have the same meaning as capitalized terms defined in the IGA.
7. This Fourth Amendment may be executed in several counterparts, all of which shall be considered to be one document.

IN WITNESS WHEREOF, the County and Bennett hereto have executed this Fourth Amendment effective as of the date first set forth above.

COUNTY:
Adams County, Colorado
Board of County Commissioner's

Chair

Date

ATTEST:
Josh Zygielbaum, Clerk & Recorder

APPROVED AS TO FORM:
Adams County Attorney's Office

Deputy Clerk

Doug Edelstein

BENNETT:
Town of Bennett

Mayor, Royce Pindell

Date

ATTEST:
Town Clerk

Christina Hart

[SEAL]

RESOLUTION NO. 893-21

A RESOLUTION APPROVING A FOURTH AMENDMENT TO INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS COUNTY AND THE TOWN OF BENNETT FOR AN OFFICE LEASE AT THE BENNETT SHARED COUNTY SERVICE CENTER

WHEREAS, the Board of Trustees has the power pursuant to Section 31-15-713(1)(c), C.R.S. to lease real estate owned by the municipality when deemed by the Board of Trustees to be in the best interest of the Town; and

WHEREAS, any lease for one year or less shall be approved by resolution or ordinance; and

WHEREAS, the Board of Trustees previously approved an Intergovernmental Agreement (“Agreement”) between the Town of Bennett and Adams County for the lease of the Shared County Service Center located at 401 South First Street, Bennett, CO 80102 for clerk and recorder, treasurer’s, assessor’s, sheriff’s office and other County services, which Agreement has been amended three times; and

WHEREAS, a Fourth Amendment to the Agreement has been proposed to extend the term of the Agreement and to make other changes; and

WHEREAS, the Board of Trustees has determined that the proposed amendment is in the best interests of the municipality and desires to enter into such amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF BENNETT, COLORADO, AS FOLLOWS:

Section 1. The proposed Fourth Amendment to Intergovernmental Agreement Between Adams County and the Town of Bennett for an Office Lease at the Bennett Shared County Service Center (“Amendment”) is hereby approved in essentially the same form as the copy of such Amendment accompanying this resolution.

Section 2. The Mayor is authorized to execute the Amendment, except that the Mayor is hereby granted the authority to negotiate and approve such revisions to said Amendment as the Mayor determines are necessary or desirable for the protection of the Town, so long as the essential terms and conditions of the Amendment are not altered.

Section 3. The Mayor and Town Administrator are further authorized to do all things necessary on behalf of the Town to perform the obligations of the Town under the Amendment, and to execute and deliver any and all documents necessary to effect the lease upon the terms and conditions of said Amendment, upon tenant’s compliance with its obligations thereunder and all terms and conditions of said Amendment.

INTRODUCED, ADOPTED AND RESOLVED THIS 23rd DAY OF NOVEMBER, 2021.

TOWN OF BENNETT, COLORADO

Royce D. Pindell, Mayor

ATTEST:

Christina Hart, Town Clerk

Suggested Motion

I move to approve Resolution No. 893-21 - A resolution approving a fourth amendment to the Intergovernmental Agreement between Adams County and the Town of Bennett for an office lease at the Bennett Shared County Service Center.